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No. 97-1754

In The

Supreme Court of the United States

October Term, 1998

IMMIGRATION AND NATURALIZATION SERVICE,

Petitioner,

v.

JUAN ANIBAL AGUIRRE-AGUIRRE,

Respondent.

On Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

BRIEF FOR AMICUS CURIAE IN SUPPORT OF THE RESPONDENT

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I. INTRODUCTION[1]

A critical question in this case is whether the Board of Immigration Appeals [hereinafter "Board"] correctly determined that student protests involving bus burning and related activity were serious "nonpolitical" offenses disqualifying Guatemalan former student activist Juan Aníbal Aguirre-Aguirre [hereinafter "Aguirre"] from protection against persecution. Consideration of relevant Guatemalan history and political conditions leads inescapably to the conclusion that Aguirre's actions were a form of political protest, not common criminal behavior. But the Board did not consider Guatemalan political conditions. The Board evaluated Aguirre's actions in a vacuum, as if application of controlling legal standards would be the same whether the protests occurred in Guatemala or anywhere else in the world.

Courts and the Board have consistently stressed the importance of background conditions in deciding persecution cases.[2] The test which has been adopted by the

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[1] The parties have consented to the filing of this brief. Counsel for a party did not author this brief in whole or in part. No person or entity, other than the *Amicus Curiae*, its members, or its counsel made a monetary contribution to the preparation and submission of this brief.

[2] *Coriolan v. INS*, 559 F.2d 993, 1002-1003 (5th Cir. 1977); *Matter of Exame*, 18 I&N Dec. 303, 305 (BIA 1982); *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987); *Matter of Dass*, 20 I&N 120 (BIA 1989); *Matter of Chang*, 20 I&N 38 (BIA 1989); *Ramirez-Rivas v. INS*, 899 F.2d 864, 870 (9th Cir. 1990); *Matter of T*, 20 I&N 571 (BIA 1992); *Osorio v. INS*, 18 F.3d 1017 (2d Cir. 1994); *Cordero-Trejo v. INS*, 40 F.3d 482 (1st Cir. 1994); *Matter of S.M.J.*, Int. Dec. 3303 (BIA 1997). Credibility determinations also depend on the plausible context of country conditions. 8 C.F.R. 208.16(b)

Board in determining what is a "serious nonpolitical crime"[3] *requires* an assessment of country conditions and cannot be applied in a vacuum. Relevant factors, such as political motive, proportionality to political objectives, and political legitimacy of the protestor's conduct depend on contextual evidence.[4] Aguirre sought to

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and 208.13(a) (1995) [regulation in effect throughout Aguirre's proceedings, discussed in *Cordero-Trejo v. INS*, 40 F.3d at 491].

[3] As detailed in Respondent's Brief, the Board in *Matter of McMullen* set forth the standard for determining a "serious nonpolitical crime" under 8 U.S.C. 1253(h)(2)(C)(1994): "[i]n evaluating the political nature of a crime, we consider it important that the political aspects outweigh its common-law character. This would not be the case if the crime is grossly out of proportion to the political objective or if it involves acts of an atrocious nature." *Matter of McMullen*, 19 I&N Dec. 90, 98 (BIA 1984), *aff'd*, 788 F.2d 591 (9th Cir. 1986). This language is nearly identical to language in Paragraph 152 of the United Nations High Commissioner for Refugees' *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (Geneva, 1979). The Ninth Circuit subsequently affirmed this interpretation: "a 'balancing approach' including consideration of the offense's 'proportionality' to its objective and its degree of atrocity makes good sense." *McMullen v. INS*, 788 F.2d 591, 596 (9th Cir. 1986).

[4] *Matter of McMullen*, 19 I&N Dec. at 98; *McMullen v. INS*, 788 F.2d at 597-598; UNHCR *Handbook, supra*; *Osorio v. INS*, 18 F.3d at 1029-30 (Guatemalan conditions probative of persecutor's political motives). The Board's analysis of the relationship between McMullen's actions and objectives in that seminal case relied heavily on 37 exhibits about conditions in Ireland, *Matter of McMullen*, 19 I&N Dec. at 92 n.2 and at 98. The Board also quoted a United Nations study stating that the legitimacy of a cause does not "in itself" legitimize certain forms of protest, suggesting that it *may* be relevant in

compel the government to investigate and punish those responsible for brutal assassinations of students, and to halt the authorization of extraordinary bus fare increases. The latter was not a trifling matter, but one that threatened the very survival of impoverished Guatemalans. As Guatemalan country conditions clearly indicate, Aguirre's actions were proportional to these political objectives.

This Court should uphold the decision to remand, because the Court of Appeals correctly determined that the Board did not evaluate the character of Aguirre's protests in the context of country conditions, and therefore did not properly apply its own test.

II. STATEMENT OF INTEREST

Amici are human rights, legal and other public interest organizations that work on behalf of individuals who fled persecution in Guatemala or other countries with serious human rights abuses. Amici have a strong interest in ensuring that decisions about relief from persecution

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combination with other factors. *Id.* at 99 (citations omitted). Legitimacy was directly addressed in *Matter of Izatula*, 20 I&N 149 (BIA 1990) (helping irregular armed forces overthrow a government, though unlawful, was a legitimate form of protest because of lack of opportunities for peaceful dissent in the applicant's country.) There, the Board cited a federal district court case holding that political strictures may legitimize unlawful conduct such as aiding a fellow dissident escape from prison, and that legitimacy analysis requires "[a]n accurate assessment of the political conditions existing in the particular country at the time the political crime is committed. . . ." *Dwomoh v. Sava*, 696 F. Supp. 970, 979 (S.D.N.Y. 1988). Even INS admits that context is essential. Pet. Br. at 15 and 22.

are grounded in an accurate appraisal of relevant political conditions. Particularized statements of interest are set forth at Appendix A.

III. STATEMENT OF THE CASE

Amici rely on Respondent's Statement of Facts. The issue of whether Aguirre injured civilians, however, warrants additional comment. The Immigration Judge found that Aguirre did not hurt anyone. Administrative Record [hereinafter "AR"] 54. This was based on his testimony, AR 93 (lines 10-18), which the Judge found credible. AR 51. Because the BIA did not reject the credibility determination, or identify an independent record source for contrary findings, the Court of Appeals correctly assumed that Aguirre's participation in bus burnings involved damage to property, not people – and that force was used only to protect civilians by getting them away from the buses. *See* AR 93 (lines 10-11) and *Aguirre-Aguirre v. INS*, 121 F.3d 521 at 523 and 524 (9th Cir. 1997). To the extent that inaccuracies in translation and transcription of Aguirre's testimony affect the integrity of those conclusions, the matter should be remanded to the Board to remedy.[5] Even if his protests involved more than

[5] Respondent and Petitioner disagree, for example, about whether students threw stones at buses or passengers. *See* Motion for Remand (Appendix to Resp. Br.) and Pet. Br. at 8, 13, 14, 45, 47. This disagreement turns largely on the transcription and translation of Aguirre's tape-recorded testimony in Spanish regarding the pronoun he used when testifying about throwing stones. After careful review of the oral testimony and transcripts, Amici agree with Respondent that the original transcript is in error. Moreover, the corrected transcript is more consistent with background material, discussed *infra*, about

property damage, the determination about whether they were serious nonpolitical crimes required reference to Guatemalan country conditions.

IV. SUMMARY OF ARGUMENT

The Court of Appeals correctly determined that the Board erred in applying the serious nonpolitical crime standard to Aguirre. *Aguirre-Aguirre v. INS*, 121 F.3d at 523. The Board reached the conclusion that Aguirre's protests between 1989-1992 constituted serious nonpolitical crimes without considering *any* evidence regarding conditions in Guatemala. AR 6-10 (Board decision).

Aguirre's Exhibit 2 contained four documents which revealed significant constraints on political expression in Guatemala as well as the Guatemalan government's complicity in a wide range of abuses and atrocities. AR 149-179A. Exhibit 2 supported Aguirre's claim that his actions did not constitute serious nonpolitical crimes because they were politically motivated by the government's misconduct; were targeted at the government, which was not an innocent party; were directly in response to specific government practices, such as refusal to investigate student assassinations; and were justified by the lack of meaningful opportunity for more passive forms of political expression in Guatemala.[6]

how and why bus-burning protests occurred. Bus burnings had broad popular support and were carried out by passengers, not just students, casting doubt on the notion that the two groups were in conflict.

[6] Try as INS might to show that substantial evidence supported the Board's decision, Pet. Br. at 44-48, its argument

V. ARGUMENT

GUATEMALAN HISTORY AND POLITICAL CONDITIONS DEMONSTRATE THAT AGUIRRE'S ACTIONS WERE LEGITIMATE POLITICAL PROTEST

The subjects of Juan Aguirre's protests – the Guatemalan government's abysmal failure to investigate the assassination of students and his country's conflict-ridden transportation system – as well as the form of his protest – bus burning and incidental damaging of property – had clear precedents in Guatemalan political history. Such protests occurred because these issues had become extremely significant to the Guatemalan public, whose channels for more benign forms of dissent were severely circumscribed.[7]

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necessarily fails. A determination reliant on excluding highly probative evidence can be neither "substantial" nor "on the record as a whole." *See Allentown Mack Sales and Service, Inc. v. NLRB*, 118 S. Ct. 818, 824-825 (1998) (NLRB wrong to exclude evidence that "contributes to" satisfaction of legal standard); *Motor Vehicle Manufacturers Assn, Inc. v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983) ("agency must examine the relevant data"); and *Universal Camera Corp. v. NLRB*, 340 U.S. 474 (1951).

[7] The Guatemalan background material which follows is offered to aid the Court in deciding the legal issues and underscores the significance of Aguirre's Exhibit 2. *See Regents v. Bakke*, 438 U.S. 265, 316-17, 321-24 (1978) (extra-record material regarding admissions policies of amici); *New Jersey v. T.L.O.*, 469 U.S. 325, 339 (1985) (social science material about drugs and violence in schools); *Ravindran v. INS*, 976 F.2d 754, 756 (1st. Cir. 1992) (background history of ethnic conflict between Sinhalese and Tamils in Sri Lanka); *Bajwa v. Cobb*, 727 F. Supp. 53 at n.2 (D. Mass. 1989) (extra-record sources explaining facts in record about Sikhs of India).

Weaknesses of the Guatemalan Electoral System[8]

As late as 1969, when Aguirre was born in Jutiapa, Guatemala, AR 69, his country had had virtually no experience with democratically elected civilian presidents. Leaders were installed by irregular means and extended their stay by force or fraud, and the military was deeply involved, both directly and indirectly, in the nation's governance.[9] In 1954, Jacobo Arbenz Guzman was toppled in a coup d'etat which marked a turning point in Guatemalan history. Thereafter, Guatemala became increasingly militarized[10] and came to be governed primarily by death squad. Under the regime of Colonel

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[8] The sources for this general historical background section are: AR 171-179; AR 154-170; AR 150-153 (all part of Ex. 2); John Dombrowski et al., *Area Handbook for Guatemala* (1970); Alvaro Vargas Llosa and Santiago Aroca, *Riding the Tiger* (1995); Victor Perera, *Unfinished Conquest: The Guatemalan Tragedy* (1993); George Black et al., "Lucas García: The Descent Into Anarchy," *North American Congress on Latin America (NACLA) Report on the Americas*, Vol. 17, No. 1 (1983); Susanne Jonas, *The Battle for Guatemala* (1991); *Xuncax v. Gramajo*, 886 F. Supp. 162 (D. Mass. 1995); and *Osorio v. INS*, 18 F.3d at 1023-1032.

[9] In 1839, Rafael Carrera became the first of Guatemala's dictators, ruling either directly or through puppets for the next 26 years and "set[ting] the trend of autocratic government which characterized both Guatemala and her neighbors for the next 100 years." Dombrowski, *supra*, at 25-26.

[10] Colonel Carlos Castillo Armas headed the governing junta. He was followed by Miguel Ydigoras Fuentes, a former general, toppled in another coup; Colonel Peralta Azurdia, Minister of Defense, took over until 1966, a period during which the armed opposition emerged "in response to oppression by the previous regimes," AR 176 (Ex. 2). The administration of civilian president Julio César Méndez Montenegro was "completely controlled by the military." AR 156 (Ex. 2).

Carlos Arana Osorio, "the butcher of Zacapa" [Victor Perera, *Unfinished Conquest: The Guatemalan Tragedy* (1993) at 42], approximately 15,000 people were assassinated. The military regime of Romeo Lucas García (1978-1982) ushered in a reign of terror which made Guatemala infamous. He was followed by General Angel Anſbal Guevara, General Efraín Ríos Montt, and General Oscar Humberto Mejía Victores.

In 1986, Vinicio Cerezo Arévalo was elected: "[f]or many Guatemalans, the election was viewed as a chance to set Guatemala on a new path that would liberate the country from the terror of the past." AR 156 (Ex. 2). The prediction, however, "never materialized," *Osorio v. INS*, 18 F.3d at 1026, as " . . . the military continued to be the final arbiter of political and economic change." AR 156 (Ex. 2). Although INS asserts that "freely elected civilian governments have been in power" since 1986 and that "peaceful transfers of power have been effected without violence" (Pet. Br. at 9), nothing could be further from the truth. On paper, Cerezo's civilian government restored Guatemala to the rule of law and a limited form of political pluralism. In practice, the "political opening" was a cruel hoax. Under Cerezo's administration, political violence increased. *See* discussion of human rights violations, *infra*.

Under President Jorge Serrano Elías, the situation deteriorated further, with "Guatemala again descending into a spiral of fear and violence." AR 176 (Ex. 2). In 1993, fearing an end to impunity for the human rights violations of the armed forces, Serrano suspended the Supreme and Constitutional courts to rule by decree. Ramiro de León Carpio and moderate elements of the military forced Serrano from power, and de León Carpio

was elected by Congress to serve out the term. Then, in what was widely perceived as a warning to de León Carpio, his cousin Jorge Carpio Nicolle – the head of the Unión Central Nacional party (UCN) – was assassinated by elements of the military aligned with Serrano.

Stopping Dissent: The *Desaparecidos*

Between the 1960's and the 1980's, many popular movements emerged in Guatemala, fueled by economic crisis and the impact of the civil war. Susanne Jonas, *The Battle for Guatemala* (1991). Inevitably, these movements were weakened by the human rights violations which became a persistent phenomena after the overthrow of Arbenz. Guatemala became famous for its extensive use of forced "disappearance" to silence political dissent. Indeed, it was in Guatemala that the word *desaparecido* (disappeared) was added to the international language of state violence. Duncan Green, *Guatemala: Burden of Paradise* (1992) at 33. *See* AR 159 (Ex. 2).[11] Between 1978 and 1984, over 140,000 people were killed or disappeared. AR 159 (Ex. 2). Guatemala became "an international pariah." AR 163 (Ex. 2).

Aguirre's student activism (1989-1992) spanned two administrations, Cerezo's and Serrano's. AR 70. Although the level of human rights abuses declined during the first

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[11] During Colonel Arana's regime, when Aguirre was still a child, "vigilante death squadrons composed largely of ranchers and off-duty police units" took eight thousand lives, including those of students. Perera, *supra*, at 41-42; AR 176 (Ex. 2). The Lucas García regime was responsible for "the cruelest show of violence in modern Guatemalan history." AR 176 (Ex. 2).

two years of Cerezo's administration, expectations that he could curb political violence "were short-lived." AR 176 (Ex. 2); *accord*, *Osorio v. INS*, 18 F.3d at 1026. There were "more political assassinations in 1987 than in 1985, before Cerezo took office."[12]

The culture of decades of disappearance and torture, perpetrated by security forces, was revealed to the outside world in 1989 when Guatemalan National Police brazenly kidnaped and tortured Sister Diana Ortiz, an American nun. They took her to a clandestine detention center where she was burned, beaten, sexually abused and subjected to other horrific tortures. Years later in the U.S., a federal court found General Hector Gramajo legally responsible for the brutality, because he was Cerezo's Minister of Defense from 1987 until 1990 and controlled both the National Police and a special security force that answered directly to him. *Xuncax v. Gramajo*, 886 F.Supp. at 173-175.

Torture, attacks and illegal detentions continued under Serrano's administration. AR 176-177 and AR 150 (both Ex. 2). Aside from abductions and disappearances, the official Guatemalan Human Rights Ombudsman, who the U.S. Department of State termed the "most reliable

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[12] Jonas, *supra*, at 163; AR 160 and 176 (Ex. 2); *Cordero-Trejo v. INS*, 40 F.3d at 488 (widespread use of violence as vehicle for intimidation); *Osorio v. INS*, 18 F.3d at 1023-1026 (kidnaping, death threats, wounding, disappearances, and murders of political dissidents – including students – between 1986 and 1990). As "security forces continued to assassinate, disappear and harass," AR 176 (Ex. 2), Cerezo dismissed charges of human rights abuses, going so far as to claim that the incidents arose from family-related violence. AR 159 (Ex. 2).

source of objective information," listed 304 political killings in 1990 and 258 in 1991.[13] The same proportion of deaths in the U.S. population of 1998 would equal more than 7,500 political murders in one year.[14] Such violence did not escape Jutiapa, where Aguirre lived.[15] Guatemala's popular movements were weakened by their "continuing vulnerability to the endless stream of kidnappings, disappearances, death threats, and assassinations." Jonas, *supra*, at 186.

How the Students Resisted

Perhaps because of the extremism which ruled Guatemala and the pervasiveness of human rights abuses, students were deeply engaged in Guatemalan politics.[16]

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[13] U.S. Department of State, *Country Reports on Human Rights Practices for 1990*, at 632, and *Country Reports on Human Rights Practices for 1991*, at 614, 620-621.

[14] *See* World Bank, *Poverty, World Development Indicators* (1990), at 228 and U.S. Department of Commerce, *Statistical Abstract of the United States: The National Data Book*, 117th ed. (1997) (In 1998, the lowest range for the population projections of the U.S. was 268.4 million).

[15] App. B-2, B-8, C-5. (The Appendix includes translations of Spanish-language articles from Guatemala; their original text in Spanish is being lodged with the Court, together with the translator's signed certification.)

[16] They demonstrated during the 1920's against the dictator Estrada Cabrera (App. C-27) and were key in political battles of the 1940's – when the University of San Carlos community (USAC) launched the national strike that led to dictator Ubica's overthrow. AR 168 (Ex. 2); Dombrowski, *supra*, at 32. Students helped topple the military junta led by Ponce in 1945. App. C-27. In the 1950's, the law school at USAC was involved in

Students participated in numerous demonstrations concerning human rights and social justice. For example, 5,000 students and farmers marched in Guatemala City in 1990 demanding "an end to military-police human rights violations."[17] These were issues Aguirre and fellow students in Jutiapa were also protesting at the time. AR 71-72, 80-81, 99.

University students were at the vanguard of the movement, AR 168 (Ex. 2), although secondary school students figured prominently as well. AR 169 (Ex. 2) and App. C-27 (large numbers protested fraud over Congressional elections in 1962 and organized a strike in 1988).

The Price of Student Protest

Under the military regimes that ruled after the 1954 coup, as well as nominally civilian regimes controlled by the military, the student movement suffered.[18] In one

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publishing critiques of the Arbenz government before his overthrow. AR 168 (Ex. 2).

[17] Reese Erlich, "Guatemalan Civilians Talk Peace, Nudge Reluctant Military," *Christian Science Monitor*, September 26, 1990.

[18] App. C-27. During Ydigoras' administration, security forces invaded USAC law school and killed three students during their annual *Huelga de Dolores* (strike of sorrows). *Id.* University buildings were shot at by land and by helicopter. *Id.* During the administration of Colonel Arana, security forces prevented paraders from leaving the university during the *Huelga*. AR 169 (Ex. 2). In 1978, the former dean of the USAC law school was machine-gunned to death and two student leaders executed. App. C-27. Violence and brutality decimated the student movement during the Lucas García and Ríos Montt regimes. *Id.* and AR 168 (Ex. 2).

incident in 1980, several university students were killed *for reading* a list of grievances at a foreign embassy: "[i]gnoring the Embassy's sovereign immunity, the police burned the building, leaving just two survivors, the Spanish Ambassador and one of the farm workers" participating in the protest. The injured farmworker was kidnaped from a hospital and his tortured body was found the next day on the USAC campus – as a lesson. App. C-27. *See also Young v. INS*, 759 F.2d 450, 452 (5th Cir. 1985) (former USAC activist seized by Guatemalan secret police during a meeting at the university in 1981, then taken to a clandestine detention center and beaten).

Politically motivated violence against students increased during Cerezo's administration. Students reported a multitude of death threats, were beaten unconcious in front of neighbors, were taken away in cars, and were abducted in view of passing police.[19]

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[19] *Osorio v. INS*, 18 F.3d at 1024-1026; AR 160 and 169 (Ex. 2) (wave of student disappearances and deaths in 1989; entire governing council of AEU nationwide university students association killed, disappeared, exiled, or in hiding; the killings seemed "designed by the army as a reminder to students that their activities were being closely watched"); AR 150 (Ex. 2) (five students apparently executed by government officials). Jonas, *supra*, at 163 (students among groups targeted by a "macabre 'message system,' in which ultra right death squads and/or security forces . . . acted against specific individuals in order to intimidate entire constituencies"); Tom Gibb, "A Surge of Political Kidnappings, Slayings in Guatemala," *The San Francisco Chronicle*, Sept. 23, 1989 (students active in anti-government organizations kidnaped); Marjorie Miller, "Rightists Blamed for Wave of Violence in Guatemala," *Los Angeles Times*, Sept. 26, 1989 (death threats); Amnesty International, *Reports Regarding Guatemala from Jan.-Dec. 1989*

Students were also brutally targeted in Jutiapa, where Aguirre lived. App. C-1. Throughout his life, Aguirre was surrounded by evidence of government violence against students, and it became one of two main reasons for his protests. AR 71-72, 80-81, 94.

Avenues for students to engage in political protest were exceptionally narrow. To change the practices of their government they faced numerous obstacles:

- They were attacked during meetings and their meeting places were bombed or placed under surveillance.[20]
- They were beaten and shot at or harassed during parades, at demonstrations or in other public fora in which they might express themselves.[21]

(1990) at 105 (abductions in view of police); Amnesty International, *Guatemala: The Human Rights Record* (1987) at 26-27, 113-115, 215-217; and the Center for Human Rights and Constitutional Law and Guatemalan Support Network, *Crisis Point: Human Rights in Guatemala Under President Serrano, Jan. 1991 to July 1992* (1992) at 71-74 (detailed lists of disappeared, kidnaped, and abducted students).

[20] *Young v. INS*, 759 F.2d at 759; App. C-8, C-9, C-10, C-12, C-19, C-22, C-23; U.S. Department of State, *Country Reports for Human Rights Practices for 1992*, at 408; App. C-27 (offices bombed 1992); *Crisis Point, supra*, at 71.

[21] *Country Reports for 1992, supra*, at 408; AR 169 (Ex. 2), App. C-2, C-13, C-11, C-12, C-20 (harmed while preparing for or engaging in parades such as *Huelga de Dolores*); App. C-3, C-14, C-15 (students harmed, threatened or interfered with while attempting to demonstrate); Amnesty International, *Guatemala: Human Rights Violations under the Civilian Government* (1989) at 17 (student killed moments after he addressed public rally); App. C-27 (1980 events); "News Around the World," *The Dallas Morning News*, April 1, 1990 (three university students slain in April 1990, after they set out to collect funds for the *Huelga*).

- Their other efforts to organize or engage in relatively peaceful political activities were met with violence or recalcitrance by the authorities.[22]

The *Disturbios* of the 1970s, 80s and 90s

The bus burnings in which Aguirre participated between 1989 and 1992 were not uncommon phenomena in Guatemalan history. *Disturbios* (disturbances) of this nature originated some twenty years earlier. App. B-1 and B-12. Such events were widespread, drawing support from students, passengers, *campesinos* (peasants) and workers, and becoming regular phenomena on the Guatemalan political landscape. App. C-30, C-29, C-28, C-31, B-1; Jonas, *supra*, at 181.

Such disturbances were inextricably linked to the disintegration of human rights and basic economic order which ordinary Guatemalan citizens could not escape. One source attributed the 1970s *disturbios* against bus rate increases to the crisis of the Guatemalan economy as well as the use of force by National Police to thwart peaceful

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[22] App. C-21 (students putting on human rights play in 1992 received bomb threat); App. C-24 (students who took legal action against security forces for killings received death threats); App. C-6 and C-7 (students who gave human rights evidence to U.N. Commission harassed by police); *Amnesty International Report* (1979) (efforts to negotiate rebuffed); AR 169 and App. C-23 (newspapers and other publications suppressed).

protest – which escalated the violence. App. B-1; *see also* "Lucas García: The Descent Into Anarchy," *supra*, at 20-21. Similarly, another commentator noted regarding protests against the 1985 bus fare and price increases, that "[a]lthough the initial call was for peaceful demonstrations, the government's violent response provoked bus burnings and riots on a scale not seen since October 1978." Jonas, *supra*, at 181. *See also* App. C-27 (1994 protests).

The People Versus the *Transportistas*

Why and how the political sentiments of students, peasants, workers and passengers became manifest in the burning of buses had a great deal to do with the Guatemalan public's valid perception of the transportation system as a microcosm, in its abuse of power, of the country as a whole.

The buses were privately owned by a cadre of powerful companies, the *transportistas*, which generated profits derived from fares, direct government subsidies, special government subsidies for students, and a separate government subsidy for fuel. App. B-11, B-3, B-6, B-4, B-14, B-7, B-9, B-12, C-29, C-28, C-30. The *transportistas* systematically ignored essential repairs and allowed vehicles to be operated under unsafe and dangerous conditions. App. C-29 (*transportistas* kept buses in permanent disrepair, encouraged overloading and dangling of riders, encouraged drivers to race each other for fares, endangered passenger lives and caused accidents); App. C-28 (buses a "public hazard" – two passengers killed, a third seriously injured when driver braked suddenly, failed to

stop to attend to victims, and simply continued on his route); App. B-12 (*transportistas* haven't kept promises to improve service for twenty years, have only caused it to deteriorate); App. B-4, B-9. Guatemalan newspapers aptly characterized travel under such conditions as the passengers' "Calvary" (App. B-12, B-9) – a Roman Catholic reference to Jesus Christ's tortuous march to the site of his crucifixion while carrying a heavy wood cross and wearing a crown of thorns.

The government was extensively involved in the transportation system. Fares were regulated by municipal and national governments (App. C-28, B-11, B-6, B-3, B-4, B-10, B-1); governmental commissions and agencies evaluated the propriety of increases (App. B-3, B-11, B-1); the government provided funding for new buses (App. C-29, B-14); the Ministry of Education was responsible for oversight of the students' subsidy program (App. B-7); and the government set critical policies which affected passenger use (App. B-14 [tax exemptions to *transportistas* for capital purchases], App. C-29 [penalties for drivers and bus companies that violate transit regulations], App. B-13 [imposing fines and terminating concessions], App. B-12 [appointing ex-military officers to re-establish suspended service]).

In 1990, the Cerezo administration issued a formal decree declaring that the "collective ground transportation system of people and cargo across the entire national territory" was a service "essential for the community" which the Constitution authorized the state to guarantee. App. B-5. Cerezo's decree specifically permitted the government to intervene to restore services and repair

vehicles. *Id.* But things did not improve much, even after Aguirre left Guatemala. *See* App. C-29.

Against this backdrop, it was not surprising that rate increase proposals were fiercely and widely opposed (App. B-1, B-3, B-9, B-10, B-12); Jonas, *supra*, at 180-81. Public opprobrium was further inflamed by the extraordinary extent of fare increases, especially during the 1985-92 period when the economy was in chaos, as well as by lawless methods *transportistas* employed to finagle additional increases.

The Rate Increases Were Extraordinary

A central social characteristic of Guatemala was its extreme poverty, measured by numerous social indicators on which it ranked the worst in Central and/or Latin America (the number of infants of low birth weight, illiteracy rates, infant mortality, and overall life expectancy). Jonas, *supra*, at 178-179. The Catholic Archbishop of Guatemala City rejected the 1992 bus fare increases because of their anticipated impact on this already struggling populace. App. B-10.

In 1990, the government authorized urban rate increases of 100%, followed by 50% increases in 1992. App. B-4 and B-11. During the 1989-1992 period, bus fares increased from 10 centavos to a minimum of 60 centavos for older buses. App. B-11 and App. B-12. Also, bus routes were shortened, often requiring double fares. App. C-29. According to studies by the Guatemalan government and university institutes, this meant that a family of five had to spend 30% of their average income of 500

Quetzales for bus fare alone. App. B-14.[23] The same studies concluded that a family of five required 754.80 Quetzales for a minimum subsistence. *Id.*

The situation was worse in rural areas such as Jutiapa, in that these areas received only five percent of the government subsidy. Although rural rates were generally lower, rural poverty was greater. App. C-27. Yet in Quetzaltenango, bus owners increased fares from Q.0.25 to Q0.35 while continuing to receive a subsidy. App. B-13. In 1997, when interurban fares went up more than 50%, thousands of local *campesinos* in the outskirts of Chichicastanengo, Quiché set up burning barricades and stoned buses in protest against the increased rates. App. C-31.

The *Transportistas* Acted Lawlessly

The *transportistas* exceeded even the significant latitude provided them by the Guatemalan government. They flouted rate regulations, deceived government officials, mistreated the public and engaged in other heavy-handed tactics. In 1992, *transportistas* in the northwestern city of Quetzaltenango imposed an unauthorized 25%

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[23] Average monthly salary of most workers in 1988, before the sharp decline in their purchasing power, ranged between Q.300.00 (services and office workers) and Q. 70 (domestics). James Wilkie et al., co-editors, *Statistical Abstract of Latin America*, Vol. 34 (1997), at 356 [Table 400, Evolution of Real Wages]; *Comisión Económica Para América Latina y el Caribe, Centroamérica: Evolución de Algunas Macroeconómicas* [Central America: Evolution of Real Wages] (1996) at 36.

rate increase – even though they were receiving government subsidies to provide services and despite local congressional disapproval of such actions as illegal. App. B-13. In 1990, the head of the congressional transportation commission refused to endorse a 100% rate increase because the *transportistas* had misrepresented their costs, claiming that they bought fuel at retail prices when they received a preferential rate. App. B-3. *See also* App. B-12 (discussing the fiscal advantage exploited by *transportistas* during the 1970's by selling off more than half the fuel they were provided by the government as a subsidy).

In 1990, *transportistas* imposed a de facto rate increase of 100% on Guatemalan students by refusing to honor discount coupons which guaranteed students a reduced rate under federal law. App. B-6, B-7; "Guatemalan Students Burn Buses to Protest Fares," Reuters, Feb. 1, 1990. The refusal to honor student coupons was denounced as illegal by the Ministry of Education (App. B-7) as well as the National Middle School Teachers Association (App. B-6) and precipitated protests, including bus burnings by high school students in the capitol in 1990. "Guatemalan Students Burn Buses to Protest Fares," *supra*. *See also* App. B-8, describing machine-gunning of a middle school by private police during one such protest. Students who engaged in similar protests in 1992 and 1994 were gunned down. App. C-25, C-28, C-30.

Why the Government Was the Target

By authorizing rate increases and subsidies, notwithstanding the *transportistas'* refusal to provide safe riding conditions, by tolerating the *transportistas'* illegal acts,

and by using excessive force against students and others who protested, the Guatemalan government contributed to and was necessarily implicated in virtually any protest concerning the transportation system. But the fact that it was propping up a transportation system rife with abuse was not the only issue students had with the government.

In 1992, student protests increased in the aftermath of police killing a student and wounding 17 others. "Two Bombs Explode in Guatemala City," Agence France Presse (April 29, 1992). In the spring of that year (after Aguirre had left Guatemala), high school students in Guatemala City demonstrated by blocking traffic and burning tires over the government's failure to provide them with teachers or reasonable academic conditions. App. C-15. When dozens of minors were arrested and tortured as a result, other secondary school students demonstrated.[24] In the summer of 1993, students blocked traffic and set up barricades to protest yet another instance of governmental misconduct – police brutality against peasants. "Students Block Traffic, Protest Police Actions," *The Miami Herald* (July 25, 1992).[25]

Students were hamstrung in protesting human rights abuses in less confrontational forums because the security

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[24] "Students, Cops Battle in Streets of Guatemala," *The San Francisco Chronicle*, May 1, 1992; App. C-14, C-16, C-17, C-18.

[25] *See also* "Guatemalans Demand Explanation of Thousands of Kidnapings," Reuters, Aug. 31, 1990 (protesting kidnapings and disappearances); App. C-4 (protesting abduction of student leader); App. C-17 (protesting actions of security forces during prior student uprisings).

forces did not permit it. During the years Aguirre protested student assassinations, security forces were never held accountable for the overwhelming number of kidnapings, disappearances, abuses and killings attributed to them by international human rights organizations and other informed sources.[26] The Guatemalan government did not investigate or prosecute these incidents,[27] and

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[26] For each year Aguirre was involved in protests concerning student disappearances [AR 71-72, 80-83], the U.S. State Department attributed responsibility to Guatemalan security forces, including military and police. U.S. Department of State, *Country Reports on Human Rights Practices for 1989*, at 597; for 1990 at 632; for 1991 at 614; and for 1992 at 408. The 1991 report specifically found security forces involved in disappearances and murder of students. *Country Reports for 1991, supra*, at 613. *See also* AR 159-161 (Ex. 2).

[27] Guatemalan authorities were "either unable or unwilling to apprehend or prosecute those involved in political killings," *Country Reports for 1989, supra*, at 600, and perpetrators were "virtually never held accountable for human rights violations." *See* 1990 report, *supra*, at 632; 1991 report, *supra*, at 614; 1992 report, *supra*, at 408 ("security forces rarely held accountable for human rights violations"). *See also Cordero-Trejo v. INS*, 40 F.3d at 488 (describing lack of response by authorities). Only one police officer was prosecuted for human rights offenses during 1988-1990. The Americas Watch Committee, *Messengers of Death: Human Rights in Guatemala, November 1988-February 1990* (1990), at 73-74. In 1995 the United Nations Human Rights Verification Mission in Guatemala (MINUGUA) found that "[i]mpunity is the most serious obstacle for the respect of human rights in Guatemala." The UN Report confirmed that grave human rights violations "almost in their entirety remain without response by the competent authorities." Farhan Haq, "Guatemala: U.N. Agency Finds Impunity for Rights Abuses," Inter Press Service, March 13, 1995.

courts and human rights tribunals were rendered impotent by similar abuses perpetrated against participants in legal proceedings.[28] Consequently, the vehicles for changing the government's policy of tolerating, if not actually committing, human rights abuses, like the vehicles for changing other government-supported practices in Guatemala, were severely circumscribed. It was not surprising that students in Jutiapa, like students elsewhere, included the impunity issue in their protests.

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[28] Guatemala's judges were susceptible to intimidation and corruption. *Country Reports for 1990, supra*, at 637, and for 1992 at 410. There was no resolution of cases dating back since 1985 in which the U.S. had expressed strong and continuing interest – including the 1989 disappearance of 11 students at San Carlos University, six of whom were later found murdered. *Country Reports for 1990, supra*, at 632. *See also* The Minnesota Lawyers International Human Rights Committee, *Justice Suspended: The Failure of the Habeas Corpus System in Guatemala* (1990); America's Watch Committee, *Messengers of Death, supra*, at 74 (Guatemalan judiciary crippled and ineffective due to corruption and fear of military reprisal against judges and prosecutors).

Perpetrators of political killings likewise targeted human rights monitors. AR 161 (Ex. 2); The Minnesota Lawyers International Human Rights Committee, *Justice Suspended, supra*. Individuals who tried to report on human rights violations faced personal risk and were not guaranteed safety. AR 161; Amnesty International, *Guatemala: Human Rights Violations under the Civilian Government*, at 7. Guatemala was "one of the most dangerous places in the world to be a human rights activist, topping the list of murdered human rights monitors in 1990." AR 159 (Ex. 2). *See also* App. C-6 and C-7 (students threatened for testifying before human rights tribunals).

Excessive Punishment for Involvement in *Disturbios*

Students and other Guatemalans involved in *disturbios* were punished exactly like political dissidents – by irregular detention methods, physical mistreatment, torture, and even death. During the protests of 1974, police retaliated by shooting at civilians, App. B-1, a precedent repeated during the 1978 bus fare riots by the Lucas García administration. "Lucas García: Descent into Anarchy," *supra* at 21. During the 1985 bus burnings and riots, the government's violence produced twelve deaths and fifty injuries. Jonas, *supra*, at 181.

Students have been special targets of excessive violence from formal and informal security forces during these types of protests. In 1990, private police machine-gunned a high school student during a student protest over the transportation system problems. App. B-8. In April of 1992, more than 100 minors were arrested during bus burnings, window-breakings and traffic stops that broke out in the capitol in response to security forces killing a student and wounding others, as well as to academic problems which reached crisis proportions. AR 151; "Two Bombs Explode in Guatemala City," Agence France Presse, April 29, 1998. Some protesting students were beaten and left without medical assistance by order of the police. App. C-15, C-14, C-18. Thirteen-year-old Amado Estuardo López was beaten during the protest and forced to drink chlorine in detention, which caused injuries requiring surgery. AR 151; App. C-14, C-18, C-15. There was evidence that these young people were tortured: a juvenile court judge who visited the boys in detention observed that they "had match burns on their

faces and backs," contusions on their legs and complained of having had "a red powder" thrown on them which caused vomiting and allergic reactions. AR 151; App. C-16. Some students were removed to isolated locations where authorities "then threatened to kill them." App. C-17.

These forms of extrajudicial punishment were repeated in subsequent years, when students engaged in similar protests. Abner Ariel Hernández, a high school student, was gunned down, App. C-25 (photo of students carrying Hernández' coffin); police shot and killed university student Mario Alioto Sánchez López during protests in 1994, App. C-28. The long arm of repression has even reached into the United States, where students who produced a video about the Guatemalan student movement, including the events of the 1990's, have been unable to respond to e-mail messages because of fear of reprisals. App. C-26.

VI. CONCLUSION

As the conditions clearly demonstrate, in the context of Guatemalan history, it is impossible to characterize Aguirre's actions as "nonpolitical." The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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APPENDIX A

ORGANIZATIONAL STATEMENTS OF INTEREST

National Organizations:

Guatemala Human Rights Commission/USA

Guatemala Human Rights Commission/USA (GHRC/USA) is a non-profit, humanitarian organization founded to monitor, document and report on the human rights situation in Guatemala. GHRC/USA also promotes advocacy for and aid to victims of human rights violations. In addition to publishing a bi-weekly human rights update, GHRC/USA provides funds for Guatemalan refugees to give testimony before human rights tribunals about human rights conditions in their country, trains lay people to assist with mental health support for refugees, and works with a coalition it helped found to end torture and support survivors. GHRC/USA's projects and its constituents' rights will be affected by a decision on the issues raised in this case.

Maryknoll Office of Global Concerns – Washington DC

The Maryknoll Office of Global Concerns (MOGC) works for peace, social justice and integrity of creation through education and advocacy, in cooperation with other Maryknoll departments and other institutions and organizations. This work includes policy advocacy on human rights issues to the United Nations, the United States government, and other governments. The work of the MOGC (a collaborative ministry of the Maryknoll Sisters Congregation, the Maryknoll Fathers and Brothers and the Maryknoll Mission Association of the Faithful) also

includes education and support for Maryknoll overseas missioners, many of whom are in Central America. Because of Maryknoll's historic commitment to the human rights issues in Guatemala, it will be affected by a decision on the issues raised in this case.

Network in Solidarity With the People of Guatemala (NISGUA) – Washington DC

Network in Solidarity With the People of Guatemala (NISGUA) exists to link Guatemalan communities and people in the United States in their support for the human rights and socio-economic needs of Guatemalan people. NISGUA educates North Americans to work for justice in Guatemala, supports Guatemala's grassroots movements, and seeks to impact US policy towards Guatemala towards improving human and socio-economic rights for all Guatemalans. NISGUA's projects include sponsoring of Guatemalan grassroots leaders to speak in the United States, alerting local and national Guatemala support groups in the United States about human rights issues, campaigning for US policy forwarding peace and socio-economic development in Guatemala, and publication of informational materials. NISGUA's projects and its constituents' rights will be affected by a decision on the issues raised in this case.

Washington Office on Latin America

Washington Office on Latin America (WOLA) promotes human rights, democracy and social and economic justice in Latin America by facilitating dialogue between governmental and non-governmental actors, monitoring the

impact of policies of governments and international organizations, and promoting alternatives through reporting, education, training and advocacy. Founded in 1974 by a coalition of religious and civic leaders, WOLA works closely with civil society organizations and government officials in Latin America. WOLA's projects and the human rights of Guatemalans with whom WOLA concerns itself will be affected by a decision on the issues raised in this case.

Local Organizations:

Atanasio Tzul "Guatemala Support Network" – Houston, TX

The Atanasio Tzul "Guatemala Support Network" (GSN) serves the large Guatemalan expatriate population in the Houston, Texas area. GSN advocates for the rights of Guatemalans by working with other support groups including the Atanasio Tzul Guatemalan Refugee Network. GSN produces and distributes a monthly newsletter, initiates forums and workshops, brings Guatemalan speakers to share their experience with popular and human rights organizations, and advocates on behalf of exploited Guatemalan refugees. GSN's projects and constituents' rights will be affected by a decision on the issues raised in this case.

Central American Refugee Center (CARECEN) – Hempstead, NY

The Central American Refugee Center (CARECEN) is a non-profit organization meeting the large and growing needs of the large Central American refugee community

in the New York City and Long Island area. In addition to community education work, CARECEN represents a high volume of immigrant and refugee families in immigration proceedings, with a particular emphasis on the needs of asylum seekers. Its legal and paralegal staff work on behalf of actual and potential Guatemalan asylum-seekers whose rights will be affected by a decision on the issues raised in this case.

Central American Resource Center (CARECEN) – Los Angeles, CA

The Central American Resource Center (CARECEN) is a non-profit organization meeting the large and growing needs of the large Central American refugee community in the Los Angeles, CA area. In addition to community education work, CARECEN represents a high volume of immigrant and refugee families in immigration proceedings, with a particular emphasis on the needs of asylum seekers. Its legal and paralegal staff work on behalf of actual and potential Guatemalan asylum-seekers whose rights will be affected by a decision on the issues raised in this case.

Casa de Proyecto Libertad – Harlingen, Texas

Casa de Proyecto Libertad in Harlingen, Texas, is a non-profit organization that serves Central American refugees passing through the Texas border area. Its mission is to ensure that refugees, immigrants, and citizens receive the civil and human rights protection guaranteed to them by international and domestic law, as well as by moral and humanitarian standards. To date, Proyecto Libertad has

served over 15,000 clients, meeting their immigration legal service needs and advocating for an accountable, fair and dignified immigration system. Its staff work on behalf of actual and potential Guatemalan asylum-seekers whose rights will be affected by a decision on the issues raised in this case.

Guatemaltecos Unidos en Acción of Rhode Island (GUARI)

Guatemaltecos Unidos en Acción of Rhode Island (GUARI) is a nonprofit organization comprised of individuals and groups throughout the state of Rhode Island who are concerned about the welfare of Guatemalan immigrants and refugees, and to that end work with immigrant and refugee families to help them attain legal status, and otherwise educate and provide activities for this immigrant community. Its members work on behalf of actual and potential Guatemalan asylum-seekers whose rights will be affected by a decision on the issues raised in this case.

Guatemalan Maya Center, Inc. – Lake Worth, FL

The Guatemalan Maya Center is a community based organization dedicated to providing culturally enriched education, health care, immigration and other support services for a large number of primarily Mayan Guatemalan refugees in Southern Florida. Its multiethnic staff works to meet the many and growing needs of displaced Guatemalan refugees whose rights will be affected by a decision on the issues raised in this case.

Massachusetts Law Reform Institute

The Massachusetts Law Reform Institute is a statewide legal services center that provides advocacy, training, information and legal support for the benefit of low income people, including immigrants, on a variety of issues. These issues include asylum law and the process by which administrative agencies make decisions. MLRI has an ethnically diverse constituency representing many nationalities, including Guatemalans, and is frequently involved in matters affecting Guatemalan asylum-seekers. MLRI has been involved in cases about the effect of political conditions evidence on persecution claims and in training pro bono attorneys about using such evidence in their cases. MLRI's projects, clients and other constituencies will be affected by a decision on the issues raised in this case.

School of Law of the University of California at Davis, Immigration Law Clinic

The School of Law of the University of California at Davis established the Immigration Law Clinic in 1981 and represents indigent immigrants in deportation hearings including political asylum cases. In addition to successfully representing hundreds of Guatemalan asylum seekers, the clinic also served as co-counsel in the case of *Xuncax v. Gramajo*, 886 F. Supp. 162 (1995) in which the Clinic's clients obtained a default judgment of $47.5 million against General Gramajo in favor of the plaintiffs. The Clinic has also prepared and distributed a report on the plight of Guatemalan Mayan refugees and current conditions in Guatemala ("The Genocide of the Mayan

Indians of the Villages of Western Guatemala") and has been involved in other human rights work related to Guatemala. Its projects and cases will be affected by a decision on the issues in this case.

APPENDIX B-1

"Acute Social Unrest" [*"Aguda Convulsión Social"*] (Inforpress Centroamericana), October 5, 1978

Violent actions of protest began in Guatemala City on October 2nd and 48 hours later police forces were still unable to contain them. An increase in urban transportation fares was the cause of the protest that unleased the discontent expressed by workers from various sectors, students, and citizens, which followed an agreement reached by the President of the Republic, other executive officials, the Metropolitan Council and representatives of the transportation companies. Nevertheless, the protests are part of a period in which various methods of discontent include acts that frequently end in violence in the Capitol City as well as in the provinces and rural areas. In the interior of the country more than one municipal mayor has been forced to resign after receiving threats of being lynched. In the rural areas land disputes are common and threats of confrontations between litigants, with the consequence of army intervention, have led to well known incidents. In various cities, the inefficiency of the urban projects and of the maintenance of services, including the scarcity of drinkable water, insufficient drainage systems which cause floods, the shortage of housing, the lack of resources directed to the growing student population and the miserable state of the hospital system are permanent cause for discontent. The labor conflicts have advanced to the point that the takeover of factories is already a common practice and when workers' demands are not met, they resort to other means of pressure, like hunger strikes carried out in the streets or as in the case of the recent conflict of "Duralita", which resulted in the extreme measure of the take over of the Swiss embassy (see the article in this edition of

INFORPRESS). These changes in the conduct of the country's inhabitants are occurring in an era considered an "economic takeoff" in which rising export prices, returning capital deposited in foreign banks, and a marked increase in public investment all support the modernization of agriculture, the growth of the manufacturing industries and mainly, the expansion of commercial activity. A representative characteristic of this "takeoff" is the constant increase in the price of basic necessities and services at a rate considerably greater than the increase in wages. In most cases, price increases cause only isolated discontent, because there exists the personal option of reducing or eliminating consumption. Transportation, however, is a service of such great importance for urban activities that fare increases occasion many protests and in the last decades all attempts to raise transportation fares have been unsuccessful in Guatemala. Decisions in that respect have caused violent protests which forced the revocation of fare increases.

A. – PEACEFUL PROTEST, REPRESSION AND VIOLENCE. The protests against the fare increases began on February 28 in the freeway known as the "Periphery Ring" when neighbors from the area stopped traffic for 15 minutes. Afterwards, peaceful student protests took place on September 29th when a group of secondary school students gathered in front of the capitol's municipal building, and were then dispersed by the threatened use of force by the National Police. On October 2nd, in the neighborhoods of zone 19 and surrounding areas, neighbors impeded the passing of vehicles and the presence of the "Model Squad" caused confrontations that resulted in beatings by both sides and numerous tear gassed individuals. Soon after, the violent protests spread to other areas

of the capitol and two days later, it was reported that an indeterminate number of protestors were killed or shot, several buses were destroyed, there was material damage to many commercial establishments, a total suspension of transportation services by the urban service companies, reduction of small business operations, cessation of some factory and state agency activity and it was estimated that the country would see a decline in tourism. The activity of protest groups has proved to be more innovative than in the past. Generally, the disturbances are restricted to the center of the city and damage suffered by businesses is indiscriminate; but in this case, the disturbances originated in the surrounding neighborhoods and the destruction of physical assets has affected a considerable number of businesses, though estimates of losses have not yet been precisely calculated. In addition, factory labor unions in the city of Almatitlán, situated 28 kilometers from the capitol, stopped traffic and when subdued by the police, three people suffered gun-shot wounds, which in return, the groups of workers threatened that if any of the wounded protestors died they would stop production entirely.

B. – THE ATTEMPT TO REESTABLISH ORDER. Several divisions of the National Police, which act as antiriot forces, have resorted to violent methods not seen in previous encounters. Government spokespersons continue to insist that the peace officers have not used firearms and that they have express orders from the President of the Republic to disband the protesters using other means. Nevertheless, numerous photographs published by the press and television news film footage show police shooting at groups of civilians. Of all the public protests staged

by students and workers in the last ten years, there has been only one known incident where firearms were used during a protest, in May 1974, that occurred because of the results of the presidential elections that year. During the last decade disturbances in the streets have been sporadic although always characterized by their intensity; including the protest of the teachers movement in April 1973 (see INFORPRESS, No. 38) and July of the same year (see INFORPRESS, No. 50 and 52) as well as the violent actions against urban buses in December and January 1974. The fact that police have resorted to the use of firearms in this most recent protest may have originated in the fact that the means used to dissolve the August 4th protest of this year were not effective. (see INFORPRESS, No. 305). In any case, the rejection of armed repression has provoked widespread repudiation. An editorial in the "Nuevo Diario" on October 4th affirms: "One saw the protest come but without even an attempt to counter it verbally, but instead the intent was to resolve the problem with gunshots and for this, the capitol's citizens today will be burying along with their dead, their respect for authority."

C. – LABOR DEMAND, MUNICIPAL INTERVENTION AND FARE INCREASE. The increase in fares was the culmination of a series of administrative failures to resolve the transportation crisis. On July 13th, workers from the bus companies began a labor stoppage to demand an increase in wages (see INFORPRESS, No. 300). By governmental decree, the municipal government convened a multilateral commission in an attempt to find a solution to the conflict (see INFORPRESS, No. 301). On

August 16th, the Metropolitan Council agreed with the intervention of urban transportation, pursuant to the prior resolution by the Labor Minister, to fix a minimum salary for workers (see INFORPRESS, No. 305). On August 24th, the failure of the municipal measure was publicly recognized, and since that time urban transportation has returned to normal. (see INFORPRESS, No. 306). On September 26th an agreement was signed by the President of the Republic, the Metropolitan Council and representatives of the Association of Urban Bus Companies to raise fares 100% over what they had been before, from Q0.05 to Q0.10. Official commission studies from previous years showed that the transportation crisis originated from ineffective business organization and that fare increases "would cause grave social, political and economic consequences to the system that could force the central government to settle matters by taking drastic and irreparable measures against the existing institutional system." [(see INFORPRESS No. 306)].

APPENDIX B-2

"Violence: Constant and Growing" [*"Violencia: constante y creciente"*] (Inforpress Centroamericana), May 3, 1990

The time period between the 17th and 30th of April established a continued increase in violence that has swept the country and has worsened in the last few months (Inforpress 875, 881, 882). Again, San Marcos

was the main stage for the most violent events, with the highest number of people that were assassinated and with signs of having been tortured, kidnaped, or with bullet wounds. Within this context, the accounts of common violence were also part of the circumstances, characterized by the economic crisis and electoral struggle. During that particular period, a singular event occurred, that being the capture of several police agents who were accused of being "torturers and kidnappers."

San Marcos, Center of Violence. In this context of electoral and guerrilla struggle and the economic crisis, the wave of violence continued severely impacting different sectors of society but especially the campesino population. The violent events, that because of their nature are considered political, were concentrated for the most part in the province of San Marcos, a region that for years has been severely hit by drug trafficking and war.

That department reported 6 of a total of 18 deaths that the press made known, which constitutes 33% of the reported cases, while the department of Quezaltenango was in second with 5 deaths, or 28%, making this department also known for the confrontations between the military and guerrillas that have taken place, especially in the coastal area. Nevertheless, the numbers have tended to diminish insofar as the previous reports that Inforpress has obtained.

These same characteristics also explain why San Marcos was the focus of almost the total number of kidnaping cases that took place in the country. Thus, of the ten kidnapings reported by the written press, 9 of them took place in that department, which represents

90% of the reported cases. It should be mentioned that in the case of San Marcos, in the shorter period of February 19 – April 17, the numbers surpassed the reported figures totaling 8 kidnapings, thus showing the drastic increase in the number of kidnapings throughout the country.

Among the last accounts of violence presented by the press is the assassination of José Maria Ixcayat, the director of the Runujel Junam Ethnic Community Council (CERJ – Consejo de Comunidades Etnicas Runujel Junam), which took place in the district of Pojopil, Sololá, at the moment he was getting ready to travel to the capital to participate in the commemoration of the labor day. Also, there was news of the death of a student from the University of San Carlos of Guatemala (San Marcos section), Victor Heriberto Velásquez Fuentes, after having been kidnaped on April 24; his body was found with several bullet wounds in different parts of his body. To this information one must add the accusations made by the Mutual Support Group (GAM – Grupo de Apoyo Mutuo), that in the first four years of the Christian Democratic government, there have been 4 thousand political assassinations, 1300 kidnapings, and 600 wounded in attempted murders (El Gráfico 2/5/90).

Police Involved In Common Violence. To this political violence one must include the common violence that deepens during economic crisis (and with increased unemployment), and as the presidential election nears. Those factors would demonstrate why the majority of these acts, deaths as well as kidnapings, are concentrated in the capital, most of these acts are being provoked by assaults and attempted robberies, and reflecting the level of dense population of the capital.

In the same manner it is reported in the same time period studied that 29 people were assassinated, equivalent to two people a day of which nine cases occurred in the capital, representing 31% of the total. Nevertheless, common violence extended to departments, such as Jutiapa, where the second-most number of cases, 8 assassinations, occurred (28% of total). In addition, the capital reported 6 of the 8 kidnappings which occurred (75% of total), and 7 of the 17 of the wounded reported. Among the published information stands out the "Diario Siglo XXI" (4/30/90), that stated that between April 28th and 29th there were 60 deaths and 108 wounded. Among those cases was the assassination of two Salvadoreans working in a currency exchange after robbing them of Q100,000.*

The information that stands out the most was the capture of 9 police agents accused of being "torturers and rapists", among them the head of the Office of Professional Responsibility (OPR), (formerly "Internal Affairs"), Commissioner Eli Gonzales, (this office is in charge of monitoring the actions of police agents), who along with another agent is accused of torturing two members of the Seventh Corps of the police. In this respect, information from Geovanni Valerio Cárdenas, the General Director of the Police, indicates that between June of 1989 and April of 1990, more than 150 agents have been fired (including

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* It should be noted that the cases reported here are not complete, since the press does not release many cases that occur daily.

chiefs and subchiefs) equivalent to 15 per month, for external and internal criminal acts.

APPENDIX B-3

"Congress Will Not Support Fare Increase", ["*El Congreso no apoyará aumento a los pasajes*"], Siglo Veintiuno, May 13, 1990

The Congress of the Republic has taken a stand against the new proposed fare increase for urban transportation, rejecting the position advocated by the Association of Urban Transportation Companies, as well as the pressure and blackmail they exercisē to achieve their goals. Representative Rafael Arriaga Martínez, President of the Congressional Committee of Communication, Transportation and Public Works, stated that the legislative body will not back the transportation providers who have formally solicited support from the representatives for a 100% fare increase.

In Congress, Arriaga stated, we oppose a new increase in urban fares because it is not justifiable and because we will have to approve an extension of the subsidy for six more months. Therefore, he emphasized, it is not acceptable for the transportation providers to attempt to raise fares to 40 cents.

Inflated Costs

Although urban transportation providers have presented the Congress and the Municipality with an

estimate of the increases in their operational costs, which resulted from the economic crisis, the Chairman of the Communications Committee pointed out that a new fare increase on urban transportation is not justifiable. Rafael Arriaga stated in his estimate that the transportation providers contend that they acquire fuel at the same price as common citizens, when in reality, they acquire it at a preferential price of 2.76 quetzales. Aside from that, they claim that they must buy new sets of tires every three months, when it is known that they purchase new tires no more than every nine months, because they retread all tires twice before getting new ones. Arriaga stated that, in this way, transportation providers are inflating their costs to justify their claims when they continue to make large monthly profits despite the economic crisis.

APPENDIX B-4

"Alfonso Alonso: Posture of Transportation Providers Inconsistent with the Public" [*"Postura de transportistas inconsecuente con el pueblo"*] Prensa Libre, May 14, 1990

"The posture of the urban transportation service providers is inconsistent with the most economically needy classes" said representative Alfonso Alonso, Christian Democrat of the René de León Schlotter wing, when commenting on the petition of the representatives of that service, as they negotiate the authorization to increase the

transportation fare to 40 centavos. He said that the transportation providers not only raised fares by 100% but that they have enjoyed government subsidies as well, and still there is no guarantee that the population can count on better service.

"It's impossible that the popular sector could pay such a huge increase; this will come to brutally aggravate the extreme poverty of the people", he said lastly.

APPENDIX B-5

Guatemalan Ministry of the Interior, [Ministerio de Gobernación], Accord No. 66-90, *Diario de Centro America*, No. 82 May 21, 1990.

THE MINISTRY OF THE INTERIOR

It is hereby declared that the collective ground transportation system of people and cargo across the entire national territory is essential for the community and as a consequence the provision of such services cannot be suspended.

GOVERNMENT AGREEMENT NUMBER 466-90

National Palace, Guatemala, May 21, 1990.

THE PRESIDENT OF THE REPUBLIC

CONSIDERING:

That some of the urban collective transportation owners, in adopting certain measures, paralyzed public

transportation services, seriously prejudicing state security, the public order, the national economy and the citizens' freedom to travel;

CONSIDERING:

That in accordance with the Political Constitution of the Republic of Guatemala, the state is obligated to guarantee liberty, security and peace to the inhabitants of the Republic. And so that this obligation may be met, it is necessary for the state to adopt appropriate measures in order to reinstate the essential public services for the community;

CONSIDERING:

That the Political Constitution of the Republic of Guatemala grants the State broad authority, in cases of overriding crisis and strictly for the period necessary, to take control of companies that provide essential public services when their operations are interrupted;

THEREFORE:

In the exercise of the authority conferred by section (e) of article 183, of the Political Constitution of the Republic of Guatemala, based on Articles 2 and 120 of the Political Constitution of the Republic of Guatemala,

Under Ministerial Consultation
IT IS HEREBY AGREED:

ARTICLE 1. For compelling reasons, it is declared that the collective ground transportation of people and of cargo across the entire national territory is a public service essential to the community and that it cannot be suspended.

ARTICLE 2. To take control of companies who deliver the service of collective public transportation of people and cargo across the entire national territory who have suspended or intend to suspend said services.

ARTICLE 3. In order to make effective the measure stated in the previous article, the municipalities of the nation as provided in the Municipal Code, shall take control of these companies and such take over will be communicated to the Minister of the Interior, in coordination with the Ministry of Communication, Transportation and Public Works and from that time the authorities that have effected the take overs shall act under direct orders from The Minister of the Interior.

ARTICLE 4. The Minister of the Interior is expressly authorized to do the following:

a). He shall use the public force to facilitate and maintain the renewal and continuation of service, public order, the citizens' right to travel freely, and to assure the protection of the integrity, the people and their property.

b). He may employ all personnel that may be necessary in order to make the intended take overs effective.

c). He may direct all workshops of the State to undertake the review and repair of all transportation units that, for whatever reason, are not being utilized.

d). To finance costs resulting from the take overs, with the profits of the enterprises that have been taken over and should that not be sufficient the Minister of Public Finance and the pertinent Municipality are authorized to make

any legal adjustments as may be appropriate to make any payments necessary by billing Urban Transportation's Subsidiary funds and to establish an extraordinary fund specifically for that purpose.

ARTICLE 5. The Comptroller General in charge of accounts should undertake audits of the companies that have been taken over in order to determine the correct amount, application and necessity of the subsidies that they have received from the state and equivalent – actions will be undertaken by the Director of Fiscal Inspections of the Ministry of Public Finances.

ARTICLE 6. The municipalities, in coordination with the Public Ministry, will initiate civil actions and penalties which correspond to the suspension of collective land transport services of people and cargo.

ARTICLE 7. In order to facilitate this agreement the Civil and Military authorities will lend all cooperation necessary to the Minister of the Interior.

ARTICLE 8. The take overs undertaken pursuant to this ministerial agreement will cease the moment that the transportation companies normalize services.

ARTICLE 9. This agreement will take effect immediately and will be published in the *Diario Oficial*.

MARCO VINICIO CEREZO AREVALO

Licenciado ROBERTO CARPIO NICOLLE,
Vicepresidente de la República

SIGFRIDO MENDIZABAL G,
Ministro de Comunicaciones, Transporte
y Obras Públicas.

Dr. CARLOS GEHLERT MATA,
Ministro de Salud Pública y Asistencia Social,

General de Brigada
JUAN LEONEL BOLAÑOS CHAVEZ,
Ministerio de la Defensa Nacional,

Ing. Agr. CARLOS DE LEON PRERA,
Ministro de Agricultura, Ganadería y Alimentación

CARLOS RENE ESCOBAR MONTENEGRO,
Ministro de Educación.

Lic. CARLOS AUGUSTO MORALES VILLATORO,
Ministro de Gobernación.

MARIO ALVEREZ GILL,
Encargado del Despacho.

Dr. CARLOS ENRIQUE SOTO M.
Ministro de Asuntos Específicos.

Lic. JOSE RODOLFO MALDONADO RUIZ,
Ministro de Trabajo y Provisión Social.

Lic. ANTONIO PALLARES BUONAFINA,
Viceministro de Relacíones Exteriores
Encargado del Despacho.

MARTA REGINA DE FAHSEN,
Viceministra de Cultura y Deportes,
Encargada del Despacho.

Lic. OSCAR HUMBERTO PINEDA ROBLES,
Ministro de Economía

JUAN FRANCISCO PINTO C.
Ministro de Finanzas Públicas.

Ing. RAUL EDUARDO CASTAÑEDA ILLESCAS,
Ministro de Energía y Minas

APPENDIX B-6

"Teachers Support Students in Their 'Just' Demands" [*"El magisterio apoya a los alumnos en sus 'justas' demandas"*], La Hora, June 4, 1990, at 5

Teachers unconditionally support the students in their just demands that transportation providers accept the School Voucher and insists that they respect the law, since the voucher is regulated by the Legislative Decree 8-90, which was reported today to LA HORA by Raul Montenegro of the Advisory Board of the National Association of Secondary Education. [ANEEM]

"The consequences of the student's discontent cannot be foreseen, possibly leading to disturbances and a serious social conflict, all because of the whims of the transportation providers in not accepting the voucher," he said.

"Clearly this voucher specifies its validity as bus fare, that is 20 cents, making illegal the attempt to charge students 10 cents more for each ticket," he indicated.

THE NORMAL COURSE OF THE SCHOOL YEAR WILL BE AFFECTED

"This problem will affect the course of the normal school year," Montenegro added, "having negative consequences on the planned course work of each subject. Already today the classes were suspended after the students left school to participate in a peaceful march of protest." They will be missing out on their education, especially as the mid-year exams approach, however it is

not their fault, but the caprice of the transportation providers," he added.

ANEEM ANALYZES THE PROBLEM

"ANEEM is analyzing the School Voucher problem, observing it with great concern and awaiting the intervention of the authorities in favor of the students' interests," Montenegro said. "Once again," he added, "the transportation providers are creating problems, but not for the government, but rather in this case, for the students, all from the social classes most in need, who are always the most affected."

APPENDIX B-7

"Education Ministry Blames Transportation Providers" [*"Ministerio de Educación culpa a los autobuseros"*], *Siglo Veintiuno*, June 5, 1990, at 12

Julio Batres, the Viceminister of Education, criticized urban transportation providers, holding them responsible for obstructing the school year when they rejected the student school vouchers for urban transportation. "The transportation providers are acting with resentment in an immature way and all indications are that they are not looking for anyone to whom they are obligated but for someone to pay them", said the public official, demanding a rapid solution to the conflict that began after the rejection of the school vouchers.

He said that the Education Ministry has followed through with all requirements in order to avoid problems with secondary school students, but the transportation problem is beyond the power of this branch, thus requiring the cooperation of the owners of collective transportation.

When asked about the possibilities of the paralyzing of the school year, Viceminister Batres called upon the sensibility of the students and teachers to not let themselves be taken advantage of by interested parties that only want to capitalize on the student movement for the purpose of creating a climate of instability.

"I believe the students have acted maturely and are right to protest the lack of service that is guaranteed to them by the government through school subsidies. Now the question is whether the transportation providers will respect the legal dispositions in order to avoid greater conflicts," he emphasized.

Batres continued saying, "Teachers are able to develop a study program by means of homework assignments in order for students to take full advantage of their time and achieve greater progress. I regret the time loss in the teaching-learning process, first due to the transportation work stoppage for two weeks, and now because of the refusal to accept the student fare vouchers, and in addition, the shortening of the school year due to elections, which will advance the end of classes."

APPENDIX B-8

"Political Violence Provokes Agitation" [*"Violencia política provoca agitación"*] (Inforpress Centroamericana), June 14, 1990

Constant violence in the country has continued during the last months, with the tendency to increase in June (Inforpress 883). Among the many cases, the ones that stand out are the actions committed against organized sectors of human rights organizations and displacees, which have caused international protests and actions to that effect. In the midst of one of these protests, like the taking over of an International Red Cross Center, the Mutual Support Group (GAM) renewed the demand for the President of the Republic to follow through on his numerous offers to create an Investigation Commission, which he has never complied with.

Cases of violence in May and June. Over the past few days, violence has increased noticeably; 15 assassinations have been reported in the first four days of the month. Standing out among these acts are the appearance of victims in places near the capital that have traditionally been used to dispose of cadavers. In Villa Canales, Mixco and Amatitlán there have appeared in this time period seven cadavers, in some cases with evidence of torture, with their hands tied and shot or wounded with a knife.

Another case that occurred in the capital was the assassination of Otto Salvador Hernández, who was getting ready to leave the country after having received death threats.

In the meantime, it become known that two patrollers and a military commissioner who were responsible for the assassination of Maria Mejiá, Director of the Council of Ethnic Communities "Runujel Junam" (CERJ, Consejo de Comunidades Etnicas, Runujel Junam) were released in Santa Cruz del Quiché. The above mentioned were arrested after Mejiá's husband, who witnessed the assassination, filed accusations. Nevertheless, the judiciary ruled that there was not sufficient evidence to prosecute the accused perpetrators.

Another act of violence that occurred on the first of this month was the machine-gunning at the middle school institute, Rafael Aqueche, by alleged private police, who took such action during the time of a student protest because of problems caused by the urban city transport service.

In the month of May, 45 assassinations and two kidnapings, were registered. The majority of these acts were in Guatemala (14 cases), Sololá, San Marcos and Jutiapa (6 cases in each). Also in this month, six cadavers appeared, with evidence of violence, in a land fill, a "traditional dumping grounds", near the capital.

In the same manner was found on May 1 the body of university student Victor Heriberto Velásquez, who had been kidnaped a week before. In the neighborhood of Pojopil, Sololá, a director of CERJ was assassinated on May 1 by armed men who broke into his house in the early morning hours.

At the end of May, a union representative from the company Tipic, S.A, Filiberto Ramírez, took refuge in the

Guatemalan Red Cross Center with his family after armed men tried to kidnap him from inside his home.

Political violence is also surfacing in the electoral scene. Since the first week of May, Luis Angel López Salguero, the Secretary of Organization of the party branch of the National Center Union (UCN, Union del Centro Nacional), of Jutiapa, is disappeared. Likewise, in San Andrés Itzapa, Chimaltenango, four members of this same party were wounded by a grenade that was hurled at them by unidentified persons. Among the attacked, according to directors of the UCN, were various survivors of the El Aguacate massacre of November of last year.

Violence provokes protests and demands. The event that caused the most repercussions was the kidnaping of Luis Miguel Solís Pajarito, the member of the Guatemalan National Board of Dismissed Workers (CONDEG, Consejo Nacional de Desplazados de Guatemala), who participated in the National Negotiations as a representative of the refugees. Solís, whose father and brothers were also missing, was threatened at the end of April, and on May 3, he was kidnaped in the Capital. After the act, CONDEG demanded that the President of the National Reconciliation Comission (CNR) intercede for the appearance of Solís before responsible entities, since as of May 27, there had never been a protest by the CNR.

At the end of May, CONDEG released a report stating that on the 23rd of that month, the patrollers Salvador Tiño, Enrique Chich and two other persons tried to kidnap a director of CONDEG in Santa Cruz del Quiché.

The most impressive event that resulted from the kidnaping of Solis was the take over of the headquarters of the International Red Cross Center from May 29 to June 1, by the Mutual Support Group (GAM). The occupants demanded the live appearance of various missing persons, among them Solís Pajarito and Rumualda Camey, (kidnaped the previous year) as well as the creation of the Investigating Commission, which the present government has been promising since 1985.

It is important to remember that after constant pressure by GAM, the commission was agreed upon but it never came to life. According to Claudia Arenas, the presidential spokeswomen, this was due to the fact that the previous Human Rights Ombudsman, Gonzalo Menéndez de la Riva, refused to participate in the Commission. Afterwards, the government promised to reactivate the commission in March 1988, when it signed the agreements with the Organization of Labor Union and Popular Action (UASP, Unidad de Acción Sindical y Popular), but once again this promise was not met.

GAM abandoned their premises with a letter in hand from the Vice-President of the Republic, Roberto Carpio, in which he committed to respond to their demands. In the first meetings with the official, that still have not concluded, it became known that the Human Rights Ombudsman Ramiro de León Carpio refused to participate in the commission, because the members of GAM announced that they would agree to keep the commission together only if the commission was comprised solely of Executive representatives.

Together with these events, international signs of solidarity with the sectors affected by violence continued to be manifested. In early May, representatives of the Organization of Continental Latin American Students (OCLAE, Organización Continental Latinoamericana de Estudiantes) and the Interamerican Student Union (UIE, Unión Interamericana de Estudiantes) visited the country with the purpose of investigating the reports of harassments against the student sector. The UIE and the University Student Association (AEU, Asociación de Estudiantes Universitarios), will try to establish in Guatemala a group of observers of student and academic rights, whose seat will be in Guatemala.

For their part, Canadian students asked their government to suspend aid to the Guatemalan regime until it investigates the kidnaping and assassination of university students.

Finally, the Interamerican Commission on Human Rights of the Organization of American Students (CIDH, Comisión Interamericana de Derechos Humanos de la Organización de Estados Americanos), released a report in which they affirmed the existence of organizations of hired assassins that provide their service to politicians and that are protected by an impenetrable shield of anonymous impunity. The report adds that presently in Guatemala violence is increasing drastically, and that the government's reputation is tarnished due to the inadequate system of justice.

APPENDIX B-9

"Transportation Users Protest the Increase in Night Fares" [*"Usuarios protestan por alza de pasaje nocturno"*], *La Hora*, July 18, 1991

Public urges fare standardization, since many microbuses charge as much as Q1.50 per trip.

Patrons of urban transport, who are unhappy at continual increases in fares for night service, renewed their protests this morning. Residents of zones 7, 11, 12, 18 and 19 of the capital have indicated an urgent need for municipal regulation of night time bus fares as soon as possible, because otherwise the transportation companies will continue to increase the fares to serve their own whims, prejudicing the interests of the residents.

According to these affected, the biggest problem comes from the microbuses whose fares between 8 and 9 at night oscillate between Q1.25 and Q1.50 per trip – a price which they find inconceivable – thus they are at the mercy of the transportation providers who take advantage of the public's need for access to transportation in order to get home at night.

Such fares would be justified if the service were efficient but it is exactly the opposite. The day time service leaves much to be desired and the nighttime journeys are essentially a cross to bear ("un calvario") that the passengers have to endure.

The problem also exists among bus companies, which have at least taken the care to post visible fliers on the buses that warn the public about the 100% increase in

night-time fares, but the problem is more prominent in microbus companies.

Such fare is now a tolerable 80 cents, which when all is said and done, they indicated is tolerable, given no legal regulation of fares. In contrast, to pay as much as Q1.50 for a night-time fare on a microbus, which arrives only once every hour or hour and a half, with passengers obliged to ride with only the minimum of security precautions, thereby endangering their lives, is intolerable, the residents pointed out.

As a consequence, those affected are demanding municipal regulation of nocturnal service of the buses and especially the microbuses that provide urban transportation.

It is not fair that transportation providers try to take advantage of consumers' need to depend on the night service by charging high fees according to their whim in order to raise their profits while seriously hurting the public, they indicated.

Just as there is regulation for day time fares there should be, and without delay, for night time fares, which has a higher demand, said the complainants.

Otherwise, consumers will suffer increased econo[illegible] harm as a result of paying almost 400% more for bus fares, they concluded.

APPENDIX B-10

"No Fixed Increase for Urban Transport" [*"Sin fijar alza en pasaje urbano"*], *Prensa Libre*, December 7, 1992

New Fares to Take Effect the 16th of This Month

Nine days until the termination of subsidization for urban transportation, the Guatemala City Municipality and representatives of the Urban Transport Coordinator have been unable to reach an agreement as to a new fare increase, it was reported.

The round of talks intended to fix the amount of the increase have been going on for months and have now stalled completely due to each side arguing that there are different reasons for them to not compromise and accept the other's position.

Mayor Oscar Berger Perdomo has maintained the position that he will not authorize new fares because the increase sought by the transportation providers is far too high, and has made it known that he hopes the commission appointed by the Executive will favor the municipal corporation's proposal.

The local government asked the government to invest in urban transportation, so that they can authorize new fares, and as a separate matter, asked for the completion of the second phase of the freeway which runs peripherally around the city, the construction of separate lanes for buses, the change in starting times in the work place and voucher to workers in the public and private sectors.

- **The Voucher is Rejected**

After analyzing the municipal proposal, the commission authorized the graduation of starting times only, but rejected the idea of the voucher. With regards to the latter, Berger has said that the Minister of Public Finance, Richard Aitkenhead Castillo, has indicated that the resources don't exist to grant said voucher which is why the proposed salary increase was also rejected.

- **New Fares**

The local government maintains its position with regard to three possible prices; Q0.50, Q0.60, and Q1.00 while the bus owners continue to ask that fares be raised to Q0.80 and Q1.25.

Gamaliel Chin of the Office of the Coordinator has declared that starting the 16th of December, the fares will have to increase, which they have placed announcements in the buses about, explaining the increase to the public as due to bus companies no longer affording to operate at a loss since the supplies and parts they use are imported and they acquire them at high prices.

- **The Church Rejects It**

The archbishop Próspero Panados de Barrio rejected the fare increase for urban services and said that the municipal authorities need to understand the severe poverty that exists in the country, a situation that may upset the public more.

APPENDIX B-11

"Two New Rates Are Fixed for Urban Transport" [*"Fijan dos tarifas para el transporte urbano"*], La Hora, December 10, 1992

*Fares are set at 60 and 85 for normal service and preferred service, respectively.

The Municipal Corporation of Guatemala resolved to definitively fix two rates for the urban transportation service of the City of Guatemala after a careful study of the companies' financial state.

The new fares are set at 60 centavos for regular service and 85 centavos for preferential bus service: both increases are substantial enough to guarantee adequate financial earnings for transportation providers.

The study done by the Council determined that with a rate of 60 centavos transportation providers will be able to earn a net profit of 22%, thus any attempt to raise rates any higher would be improvident.

The Municipal Corporation submitted the study for consideration at last night's session after determining definitively that fares should not be raised any higher than those mentioned, which should protect the interests of the public.

In addition said fares grant a sufficient margin of gain for transportation providers, thereby automatically guaranteeing they will have to provide their services.

This means that the rate for regular service would go up from 40 to 60 centavos for each fare, in other words,

an increase of 20 centavos, and the preferential from 75 to 80 centavos, or five centavos difference.

Earlier municipal studies have concluded that in order for urban transport to maintain a profit, fares could not be lower than 55 centavos and no higher than 80 centavos.

These studies have since been subject to a number of later analyses throughout this year in which the final decision of the acceptable bus fare was finally ready according to which two fares were established and clearly defined which cannot be exceeded by the transportation providers.

The municipal resolution is adopted a week before transportation providers began charging increased fares, claiming an increase in operational costs, as they have announced on flyers placed inside buses.

Discontent has been manifest even as they are unaware of the rate to be fixed for fares. But the resolution of the Municipal Council is determinative with respect thereto, as it is based on financial studies of the state of the urban transportation system in Guatemala City.

However, transportation providers have unofficially let it be known that the rates they have proposed are 80 centavos per fare for regular service and one quetzal and ten centavos for preferred service.

APPENDIX B-12

"Transportation Crisis and the Passengers' Cross to Bear" [*"Crisis del transporte y el calvario de los usuarios"*], *La Hora*, December 12, 1991

* This grave problem goes back years.

The current urban transportation crisis in Guatemala City is a dramatic inheritance from the unfortunate history of the service that has greatly impacted the thousands of people that need the service every day.

The roots of this crisis go back almost 20 years, resulting from the deterioration of this service which is the direct fault of transportation providers who have never made good on the promise to improve it and instead have provided the public with a service becoming increasingly deficient and unsatisfactory.

The first recent crisis came in December of 1973 when urban transport, skillfully manipulated by political tendencies, in light of the proximity of the presidential elections the following year, decided to create problems for the municipal administration of the lawyer Manuel Colom Argueta.

Demanding an increase in fares, transportation providers stopped service a few days before Christmas, taking advantage of the high demand for transportation common during this season.

However, the mayor took over the companies and named as intervenors ex-military officers, succeeding in reestablishing service almost immediately.

Two new work stoppages occurred during the following municipal administration led by the lawyer Leonel Ponciano León from 1974-1978: always a result of pressure from transportation providers who were not content with the fact that fares had remained at 5 centavos.

During the administration of lawyer and colonel Abundio Maldonado, the pressure applied by transportation providers motivated intervention by general Romeo Lucas García, due to grave disturbances, but despite everything they succeeded in getting bus fares raised to 10 centavos, at the cost of numerous injuries to mostly innocent victims.

Always exerting pressure based on their eternal discontent, transportation providers managed to gain two almost consecutive fare increases during the municipal government of Alvaro Arzú. The fares rose from 10 to 20 centavos and finally from 20 to 40 centavos.

Now they are seeking an increase of 100% – from 40 to 80 centavos for the so-called "regular" service "and an increase from 80 centavos to Q1.10 for "preferential service", including the metrobus, which is incorporated with the Urban Transport Coordinator.

Transportation providers exert constant pressure, arguing losses in a business which provides an excellent yield. In fact, business is so profitable that in the decade of the 70's urban transport permitted itself the luxury of selling to El Salvador more than half of the diesel that the government provided to them subsidized; before the approval of the monetary subsidy of millions which is currently at Q72,000,000 per year.

APPENDIX B-13

"Bus Companies Impose New Fares According to Whim" [*"Transportistas imponen tarifas antojadizas"*], *La Hora*, December 17, 1992

* Normal service in spite of work stoppage in the capitol

In Quezaltenango City urban transportation companies have not stopped service, nevertheless they have increased the 25 centavo rate to 35 centavos, although they still count on a subsidy, the representative for the western department, lawyer Luis López Maldonado announced this morning.

Congressman Luis López Maldonado, who is also the first Vice President of the Republic's Congress, indicated that presently the Mayor of that province, Roberto Pérez Maldonado, at the moment has not adopted any measure to prevent the urban transport providers from arbitrarily and illegally raising fares.

López Maldonado recalled that during his time as mayor in Quezaltenango which is the second most important city in Guatemala, when the city was faced with a similar problem, namely the paralysis that in these moments is being lived by the metropolitans, they immediately dealt with it by imposing fines and terminating concessions.

However, the current Municipal Chief continues to not take action, although the situation in Quetzaltenango is less complicated than at the capitol in that the number of transportation companies numbers only 100, stated

Pérez Maldonado, meaning that the municipal government has much more control over the transportation companies and their subsequent fares, so that the mayor Robert Pérez Maldonado should put an end to the situation.

"In Quezaltenango City the urban transportation companies have increased fares in an arbitrary and illegal manner in spite of the subsidization they receive. However the anomalies do not stop there – the drivers who handle these units do not extend the respective ticket and are calmly charging 35 centavos," explained López Maldonado.

The Congressman of the Christian Democratic Congress of Guatemala (DCG) concluded that, according to his sources, urban transport is providing normal service; nevertheless, in the face of a probable work stoppage, that will undoubtedly be illegal, adding to the arbitrary fare increase already mentioned, the local government should act quickly and with force.

APPENDIX B-14

Edgar Aragón, "Economic Indicators of the Urban Transportation Crisis" ["*Incidencia economica de la crisis del transporte urbano*"] La Hora, December 17, 1992

The urban transport crisis has had an economic effect on the entire population to the

extent that public transport is needed by approximately two and a half million people everyday. The economic impact of this service can be easily quantified by its cost to the users and their rejection of a service that does not satisfy transportation demands.

Dissatisfaction with Demands

The inability of the urban transportation system to meet the needs of customers who live in Guatemala City is a painful problem of the recent crisis. The number of buses in circulation does not adequately meet the public's daily transportation needs to go to their jobs every day.

According to statistics from the Municipality of Guatemala there are between 29 and 32 companies that operate approximately 1,370 average vehicles of transportation in the capital city every day.

Of these companies 16 are bus companies who operate an estimated 1,270 vehicles to provide transportation to about 1,500,000 users each day.

There are 13 microbus companies, also known as cruising taxis, that according to municipal estimates provide transportation for about 1,500,000 people every day.

The demand for such methods of transport has reached a saturation point. According to the city hall, in 1990 the population of the metropolitan area was determined to be 1,825,834 which is the estimate of the Association For the Well Being of the Family (APROFAM). According to City Hall, the population has increased to 2,074,562 Guatamalans in the past two years.

Such statistics highlight the fact that the transportation system is clearly insufficient to meet the needs of the inhabitants, and on the contrary, results in a deficit since the number of users exceeds the total number of inhabitants in the metropolitan area.

However, it must be noted that many of the people who use the public transportation system make more than a single trip each day, thus logically resulting in the number of users exceeding the population.

Redirection of subsidy

The thorny nature of the price of urban transportation in relation to the elimination of the state subsidy has revitalized the issue of rechanneling of the subsidy, a matter that has remained pending, as a practical matter, for more than half a year.

The rechanneling is contemplated by the Decree 29-92 of the Congress of the Republic on April 28th of this year, which provided that the Executive branch, represented by the Minister of Public Finance, should have programmed in the Income and Expense Budget for 1993, Q72,000,000 to be channelled through the Capital Municipality to urban transport provided in the following terms:

The transportation system must designate Q20,000,000 for bus passes for employees of the Executive, Legislative and Judicial Bodies, for 25 quetzales per month for each worker, and for municipal employees whose monthly salaries are less than Q800.

This was intended to directly subsidize the workers and allow them to face, albeit barely, the monthly cost of transportation.

The Congress has also allocated an additional Q25,000,000 to the Capital Municipality to invest in the termination of the construction work of the "Peripheral Ring" in Guatemala City and the construction of alternative routes intended to alleviate the tremendous amount of vehicular traffic.

As an additional measure of rechanneling the subsidy is intended to counteract the economic impact of the demand for public transportation, particularly at peak hours.

Behind the Trusteeship

Another intention of the rechanneling of the subsidy was the support of trusteeships who will be offering credit, to various urban transportation companies, for Q17,000,000.

Supposedly this is being allocated for such trusteeships and is expected to provide enough credit to companies that they will be able to acquire new buses, repair old ones, improve the overall maintenance of those still in circulation and generally improve the deficiencies in the services.

The Municipality maintains that they could acquire 400 new buses exempt from taxes, importation fees, etc.

The Level of Costs

The level of costs for the services rendered is also an important consideration with respect to urban transport problems. Certainly, the price of maintaining the buses, including repairs and spare parts, has increased, but subsidization has financed at least part if not all of the cost of the service.

Meanwhile, the bus companies maintain that the subsidy is not working in their favor in that when it commenced it was equivalent to 9.7 centavos for each bus ticket sold, but due to the devaluation of the Quetzal its value has been reduced to 6.9 centavos, causing bus companies to operate at a loss.

For their part, the Labor Union of Drivers of Motorized Vehicles (SPAS) insists that earnings are important and will not occur without subsidy and a higher fare.

For each service unit charging 80 centavos per trip, the transportation providers would obtain a daily net earning of Q161,879.35 and 80,879.35 if they charge 55 centavos per trip.

According to the Bank of Guatemala, however, this past June urban transport companies had purchased a total of 213 millions of tickets.

Local analysts estimate that this data from the central bank, which was obtained in turn from the Municipality of Guatemala, is a short term economic indicator that demonstrates the profitability of the service.

Effects of the New Fares

The economic problem of urban transportation affects the cost of obtaining essential services because it increases the difficulties in satisfying minimum subsistence necessities. The Department of Economic Statistics of the Bank of Guatemala reports that on December 4, 1992, inflation was at 13.32% and that the total index of prices for the consumer was at 519.9, from a base of 100, much higher than the figures for December 4, 1991 which saw a total index of 458.8 (11.66% inflation rate).

The implication of such statistics suggests that the inflation rate will continue to rise until the end of the year. Meanwhile wages will stay as they are and will be unable to keep pace with prices for food and services.

The Institute for Social and Economic Study at the University of San Carlos (IIES), citing statistics from the National Institute of Statistics (INE), shows that until 1990 the minimum daily cost of feeding the average family of five was Q12.65 with a monthly total of Q379.38. These numbers refer to a basic nourishment, and do not take into account basic services like health care, housing, clothing or transportation.

The minimum amount of money required to sustain a family of five for a single day was Q25.16 with a monthly cost of Q754.80. In the past two years however, those figures have tripled while wages remain at levels that are insufficient to cover the basic needs of a family.

The IIES states that forecasts of economic activity show the average salary is currently at Q11.60 a day and Q500 a month.

The increase in fares for urban transportation will have a negative impact on families who use public transportation. Studies show that a family of five will spend a minimum average of Q150 each month on public transportation alone.

If one takes into account the costs of daily living and the average wage for workers based on the above statistics one will conclude it will be difficult for most of the 2.5 million users to confront the increased fare.

According to the National Center for Economic Study (CIEN), the subsidization of the transportation systems has until now, kept the price of bus tickets as low as possible by providing Q6,300,000 in aid every month or the equivalent of Q72,000,000 each year. Ninety-five percent of the subsidy was allocated to the nation's capital and five percent went to the rest of the country.

The CIEN and other entities are in favor of eliminating the subsidy and deregulating fares with the idea that it will be an incentive for new transportation companies to participate and thereby broaden the existing system, increasing competition, stimulate efficiency and to improve the quality and diversity of service.

Thus, the task is to reconcile interests, on the one hand taking into account the limited economic capacity of the public to pay higher fares, and on the other the transportation sector must assume responsibility to effectively improve its services, guaranteeing that they will be rendered adequately without mishap now that a great part of the country's economic activity largely depends on its transportation system to mobilize daily an elevated percentage of the economically active population.

APPENDIX C-1

"Guatemala – Human Rights and Security," *Central America Report* (Inforpress Centroamericana, Guatemala City, Guat.), Vol. XV, No. 34, September 2, 1988, at 269-270

Guatemala

Human rights and security

United Nations human rights expert Héctor Gross Spiel notes "enormous progress" in the government's efforts to improve human rights conditions. Within the country, however, charges of rights violations are on the rise.

Human Rights: For International Consumption Only? The Christian Democratic government of Vinicio Cerezo has undertaken a vigorous campaign over the last two-and-a-half years to improve the country's image within international forums. Diplomatic efforts by government delegations contributed to Guatemala's removal from the UN's list of serious offenders in 1987 (*CAR* XIV 14). The mandate of UN rappateur Lord Colville was terminated, and since then UN specialists have made periodic visits to the country to monitor conditions.

During a brief stay earlier this month, Gross Spiel stated that Guatemala has "come a long way" in terms of human rights protection and that rights violations are no longer official policy. He said he had visited refugee resettlement areas in Huehuetenango and El Quiché and was impressed by the work of the Guatemalan repatriation commission (CEAR).

In an interview published by the Salvadoran daily *El Mundo*, however, Gross Spiel affirmed that "kidnappings, torture and extrajudicial killings continue" in Guatemala.

A similar assessment was released recently by the Guatemala-based Center for the Investigation, Study and Promotion of Human Rights (CIEPRODH).* In a strongly-worded report, CIEPRODH claims that the "climate of institutionalized violence and insecurity" in Guatemala accentuated markedly between April and June, with threats, harassment and assassination attempts directed at "leaders of popular organizations." The CIEPRODH report states that military control over the country persists and that forced recruitment into civil defense patrols (*CAR* XV 33) inhibits the population's freedom of movement.

CIEPRODH goes on to charge that "in the name of national security, counterinsurgency and low-intensity warfare, human rights violations in Guatemala are escalating." For the first six months of 1988, the center documented 803 cases, of which half were killings. The violence is tabulated by region: the central region (departments of Guatemala, Chimaltenango, Sacatepéquez and El Progreso), with 39% of the cases (95% of those in Guatemala); the northern region (El Quiché, Alta Verapaz, Baja Verapaz, Izabal and Petén), with 24%, particularly in El Quiché; the southern region (Santa Rosa and Escuintla), with 12%, the western region (San Marcos, Huehuetenango, Retalhuleu and Suchitepéquez), with 15%; and the eastern region (Zacapa, Chiquimula,

* CIEPRODH is directed by Factor Méndez, a former law professor at the national university who spent several years in exile. Earlier this year the center held a forum on human rights in Santa Cruz del Quiché.

Jutiapa and Jalapa), with 9%. Nearly one-third of the cases involve students, according to CIEPRODH.

Violence on the Upswing. Local press reports over the past two months indicate a steady rise in the level of violence.** Incidents follow the familiar patterns: on August 16 in the municipality of Mixco, near the capital, the bodies of two Indian women were found with signs of torture. The two, Martha de León and Victoria Girón, had disappeared on July 18. According to the Guatemalan daily *La Hora* (August 19) the two women had previously gone to judicial authorities in Mixco to denounce death threats received by Martha de León, a native of El Quiché.

Family members of mechanic Walter Domingo Samayoa charged that he was kidnapped from his home by several armed men driving a vehicle with polarized windows. And three brothers, Luis Arturo, Julio Rodolfo and César Amílcar Arroyo Donis, and a friend, César Barrientos, were murdered in the capital on August 17. Witnesses stated the four were abducted by uniformed police, one of whom wore a badge marked "805." National Police spokesman Carlos Chen denied police involvement in the murders, claiming that the badge allegedly worn by one of the abductors had been "lost" over a year ago. Chen added that the Arroyo brothers were fugitives from justice, after the recent discovery of an arms cache in their houses.

** In an upcoming issue *CAR* will publish tally of political violence for the last trimester.

Chichicastenango continues to be a focus of human rights denunciations. Violence and threats there have intensified since residents revealed the location of "clandestine" cemeteries used to bury the victims of massacres in the early 1980s (*CAR* XV 9). The Committee for Campesino Unity (CUC) and the Mutual Support Group (GAM) each recently released statements charging that the Catholic priest in Chichicastenango, Father Ventura Lux Herrera, was expelled by the army. The statements claim that the military commander in Santa Cruz del Quiché ordered local residents to participate in a demonstration against the priest, with the presence of the civil patrol and soldiers dressed as civilians. The priest was accused of being a "communist and guerrilla collaborator" and had received death threats in the past (*CAR* XV 21).

More Vigilance, Less Security. On August 8, the same day the Guatemalan Labor and Popular Action Unity (UASP) initiated a partially successful general strike, the government implemented its new security system, the Civil Protection System (SIPROCI). SIPROCI is to be coordinated by all security forces, including the Mobile Military Police (under the direction of the Ministry of Defense), the National Police and the Treasury Police (under the jurisdiction of the Interior Ministry), and the civil patrols (directed by the army).*** On August 8,

*** An apparent goal of SIPROCI is to avoid further intenecine battles within the security forces, such as that which occurred between ex-National Police chief Colonel Julio Caballeros and ex-Treasury Police director Oscar Díaz Urquizu over the death van case.

security forces were installed in strategic public buildings such as the Post Office, Immigration and Congress.

International human rights organizations continue to insist, however, that so long as the perpetrators of rights violations go unpunished, increased police aid, modernization and coordination will not generate an improved atmosphere of security for the population. Thus, with Interior Minister Roberto Valle Valdizán's recent suspension of the case of the "death van," linking 27 Treasury Police agents to kidnappings and killings earlier this year, Guatemalans have little reason to feel more secure.

APPENDIX C-2

"Students Threatened by New Death Squad," *Central America Report* (Inforpress Centroamericana, Guatemala City, Guat.), Vol. XVI No. 9, March 3, 1989, at 70

STUDENTS THREATENED BY NEW DEATH SQUAD

Flyers dispersed by a March 1 "pamphlet-bomb" explosion in front of University Students' Association (AEU) headquarters in Guatemala City contained death threats against a dozen student leaders. The communiqués bore the by-line of the new "Double J" death squad (*CAR* XVI 7). Since the incident, the AEU charges it has received threatening phone calls, and leaders have been watched and followed by unidentified men.

Two blood-spattered letters were disseminated. The first was addressed to the AEU, and targeted Edin Boanerges Hernández, Héctor Salvatierra and Aharon

Ochoa.* It accused them of being members of the Guatemalan Workers Party (PGT) "6 de Enero" group (*CAR* XVI 8) and of trying to "confuse and deceive the student population and the people of Guatemala" through the upcoming *Huelga de Dolores,* an annual student activity parodying the government and other Guatemalan institutions and events. "We are watching you," the Double J said, "and it would be better for you to stop what you're doing; . . . there is still time to save your lives."

In a post script, the writers added that they had sent copies of the letter to army intelligence and the US Embassy.

The second letter was addressed to 12 AEU members, who it said were on a death list. "We are free to act," the authors warned, "and we will act."

Interior Minister Roberto Valle Valdizán has encouraged the student leaders to utilize the investigative services under his command. "The young people of the AEU, who we know fulfill an important role benefitting student interests, should have confidence in the government and openly explain their problem, so that we can investigate it," he said, claiming that the regime is a guarrantor of respect for human rights.

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* Shortly after the threats were received, Ochoa's house was sprayed with gunfire.

APPENDIX C-3

"Guatemala – Repression Hits the National University," ***Central America Report*** **(Inforpress Centroamericana, Guatemala City, Guat.), Vol. XVI No. 36, September 15, 1989, at 281-282**

Guatemala

Repression hits the national university

In a climate of increasing political violence in Guatemala, the San Carlos national university becomes a target, with eleven students kidnapped since mid August. Four of the kidnapping victims have turned up dead. The Asociación de Estudiantes Universitarios (AEU) blames the government, who in turn points the finger at sectors of the extreme right it says are trying to destabilize the democratic process.

Urban Violence Brings Back Shades of the Past. *It is common these days to see Guatemalans grouped around street corner newspaper stands, commenting with hushed voices on the daily headlines that announce what has become a tangible rise in urban political violence in the last few weeks. Many agree with labor spokesman Juan Francisco Alfaro Mijangos that the spate of bombings and assassinations of public figures and popular sector leaders raises memories of the late 1970s and early 1980s, when it was standard fare.*

The kidnapping of eleven university students in 20 days is the most recent incident to capture press headlines. On September 10, the bodies of four students were found on the outskirts of the university grounds. The bodies were identified as: Carlos Humberto Cabrera Rivera, 45, a teacher, humanities student, member of the teachers union's national assembly and

of the leftist Unidad de Acción Estudiantil (UNASE), kidnapped two days before; husband and wife, Victor Hugo Rodriguez Jaramillo, 35, and Silvia María Guadalupe Azurdia, 29, former members of the also leftist Movimiento Estudiantil Universitario (MEU) kidnapped on August 21; and Carlos Leonel Chutá Camey, 27, a law student, AEU finance secretary and leader of another leftist student group, AVANZADA, kidnapped on September 9. The four bodies showed signs of torture, including needle marks, with the cause of death determined to be multiple stabbings.*

Alongside the bodies appeared flyers claiming the killings were aimed at "dignifying" the AEU. The sheets charged Chutá with stealing 35,000 quetzals from the student association, denounced Cabrera as an opponent of university reform, and accused Rodríguez of being a government spy. Student spokespersons concede there may be a grain of truth to the charges of corruption and division within the AEU, but say such rumors have been blown out of proportion to serve as a cover-up for the murders. Meanwhile, following the discovery of the four bodies, two more students were kidnapped, one from the law school and the other from the chemistry and pharmacy school.

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* This is not the first time in the last few years student organizations have faced acts of intimidation. In March 1989, the entire AEU governing council received death threats (*CAR* XVI9), while in July 1988, the AEU secretary of cultural and sports affairs, Oscar Monterroso and another student were attacked in Guatemala city's Zone 5 by 20 armed men in four vehicles. Monterroso escaped but his friend, Adrián Guerra Roca, was kidnapped and found shot to death later that night (*CAR* XV 29).

The AEU has organized several protest marches.** Leaders say the killings are part of a plan to crush the student movement. Authorities from the regional Consejo Universitario Centroamericano (CSUCA) travelled to Guatemala to investigate the crime. They did not accuse anyone but expressed concern that the government did not seem interested in solving the case.

The student kidnappings are not the only incident to cause alarm among Guatemala City residents. On September 5, mortar shells were fired at the third floor of the national telephone company's headquarters in the capital's downtown district, while on September 9 a bomb was set off at the Camino Real Hotel in the well-to-do Zone 10 district. Minutes earlier another bomb exploded in a nearby shopping center. A total of 27 deaths are attributed to political violence in the first two weeks of September.

The government's response has been to deploy its combined security force SIPROCI in the capital and to increase spot checks of automobiles, buses and pedestrians. The Catholic Church is promoting the formation of a citizen's front against repression, while business groups are calling for the replacement of the interior minister. The congressional human rights commission has requested that a UN human rights envoy be sent to the country, and

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** During the first demonstration, students captured a plainclothes police agent participating in the march. Two other security agents identified by the students fled the scene. In addition, leaders denounced that following the march two students were detained by police, although they were released hours later through international pressure.

the US State Department this week issued a hard travel advisory on Guatemala in response to the rising violence. The warning, which took Guatemalans by surprise, advises US citizens to take precautions when traveling in the country because of the increased violence. The advisory was much broader than the previous warning and mentioned specifically terrorist bombings in the capital and highway robberies on the road to Panajachel, Guatemala's major tourist spot on Lake Atitlán. In addition, it mentioned continuing guerrilla activity in the departments of Petén, Quiché, Huehuetenango, Sololá, Chimaltenango and Escuintla.

Political Terror Again the Motive. The question of just who is behind the violence is a hot topic. The Christian Democrats say it is the extreme right, which they claim is trying to achieve through force of arms what it can no longer get at the ballot box. According to this view, rightist sectors are mounting a destabilization campaign designed to expose the weakness and corruption of the regime. It has been hinted in the press that former head of state General Efraín Ríos Montt and ex-Foreign Minister Fernando Andrade Díaz-Durán, would favor a military coup.

The official position was expounded upon by Defense Minister General Héctor Gramajo. Speaking at a roundtable sponsored by the Centro de Estudios Estratégicos para la Estabilidad Nacional (ESTNA), a civilian-military think tank, Gramajo warned that democracy in Guatemala is threatened by those sectors who still adhere to the national security doctrine in vogue prior to 1982. This doctrine, the defense minister explained, sought to combat Marxist penetration by any means

available, which inevitably led to extreme social polarization in the early 1980s. In the wake of the 1982 coup, the army has taken a different approach, moving from the doctrine of national security to the doctrine of national stability, which seeks harmony between the various power blocs in the country. But there are still those to whom this change has been "traumatic," Gramajo continued, such as the military and business figures behind the 1988 and 1989 coup attempts. These groups believe the only way to combat subversion is through an iron hand policy.

Nevertheless, the government is under fire from all sides for not doing enough to stem the violence. Another view is that of the URNG guerrillas: the Cerezo administration has not taken a more aggressive stance in punishing those responsible because actions like kidnappings of students come from G-2 army intelligence.

APPENDIX C-4

Pro Justice and Peace Committee of Guatemala, "Case No. 5" ***Human Rights in Guatemala, 1990 Supplement*** **(1991) at 15**

HUMAN RIGHTS IN GUATEMALA

SUPPLEMENT

1990

Case No. 5

Name:	Orlando Estuardo Alvarado Morales
Place:	Guatemala City
Incident:	Extrajudicial execution preceded by kidnapping
Date:	October 20, 1990
Responsible:	Paramilitary groups

Orlando Estuardo Alvarado Morales, teacher, ex-student leader and student of Anthropology and History at the San Carlos University, was kidnapped by armed men dressed as civilians. The incident occurred while the victim was attending mass at the Metropolitan Cathedral, only a few meters from the National Palace and the Presidential Palace an area heavily guarded by military and police. Alvarado was then taken away while helpless onlookers stood by. Many of Alvarado's colleagues and students from the government institute "María Luisa Samayoa Lanuza" and "Colegio Miguel de Cervantes", in addition to others, held a massive demonstration demanding Alvarado's live-appearance. However, his corpse appeared floating on Lake Amatitlán showing

signs of bullet wounds and torture. In 1980, the victim's brother was kidnapped and executed; Orlando Estuardo was a student leader at the University of San Carlos at the time.

* * *

APPENDIX C-5

"Extrajudicial Executions," ***Human Rights Update,*** **#9 (Guatemala Human Rights Commission/USA), March 11, 1991, at 2**

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EXTRAJUDICIAL EXECUTIONS

The body of SERGIO GONZALEZ BARCO was found on February 25 in La Trocha, 8th Street and 11th Avenue, Nueva Concepcion, Escuintla. He had been shot.

Three members of the Florian Villatoro family were extrajudically executed on March 2-3. LUCAS FLORIAN VILLATORO (17) was abducted by unidentified men on March 2 in Cuyotenango, Suchitepequez, while he was headed in the direction of his home. (The family lives in Sector Salama, La Maquina II, San Andres Villaseca, Retalhuleu.) The same day, while his mother was reporting his detention-disappearance to the authorities, a group of heavily armed men in a pickup truck arrived at the Florian home, broke down the door and then strangled and shot to death Lucas Florian's brother, ANACLETO FLORIAN VILLATORO (22), in the presence of

his father and his younger brother, ELIAS FLORIAN VILLATORO (13). The men then abducted Elias. The next day, the bodies of Lucas and Elias Florian Villatoro were found in two different locations in La Maquina II, with signs of torture and strangulation and bullet wounds to the head ["tiro de gracia"].

The decapitated body of ARNOLDO CARDONA CONTRERAS (37) was found on March 3 near km 6.5 of the road between Antigua Guatemala and Santa Maria de Jesus, Sacatepequez. Cardona Contreras, who was a student in Guatemala City, had been abducted several days earlier, and his family had reported his detention-disappearance to the "Abductions and Extortion" branch of the Criminal Investigations Department. The victim was identified by means of documents found on his headless and decomposing body. Cardon Contreras was a native of Jutiapa.

The body of ALFONSO AREVALO CHAJON (23) was found on March 3 near km 4 of the road between Cuilapa and Chiquimulilla, Santa Rosa. He had been shot several times. Arevalo Chajon had been abducted by armed men on January 25 at his home in Canton La Quebrada, Barberena, Santa Rosa.

GONZALO GARCIA DIVAS (18) was shot to death on March 3 by a group of unidentified men, in a street in Guasacapan, Santa Rosa.

JOSE ANTONIO LOPEZ ROCA was shot to death on March 3 in a street in Agua Blanca, Jutiapa, by a group of armed men who attacked him while he was on his way to work.

RUBEN OSORIO MORATAYA was shot on March 3 by a group of unidentified men in Santa Maria Ixhuatan, Santa Rosa. He died in the hospital in Cuilapa.

ANTONIO DE JESUS RECINOS LEMUS (40) was shot to death on March 3 by a group of unidentified men, on a dirt road connecting Asuncion Mita and Guevara, Jutiapa.

The body of farmworker SANTIAGO CARMELINO REYNOSO (38) was found on March 3, with stab wounds, bruises and fractures in the right leg. He had disappeared on February 11 after leaving his home in Santa Lucia Talahi, Tajumulco, San Marcos to sell clothing in Tajumulco.

The body of PABLO FLORES VALENZUELA (28) was found on March 4 under the Poza del Tempisque bridge in Quezada, Jutiapa. He had been shot several times. Flores Valenzuela had been abducted by armed men on February 25 at his home in Quezada.

* * *

APPENDIX C-6

"Urgent Action", *Amnesty International USA*, July 19, 1991

[LOGO]

AMNESTY INTERNATIONAL USA

URGENT ACTION PROGRAM OFFICE • P.O. BOX 1270 • Nederland, CO 80466-1270 • 303-440-0913 • FAX: 303-258-7881

UA 247/91 Fear for Physical Safety 19 July 1991

GUATEMALA: Otto PERALTA, student leader
Carmen REYNA, (f) student leader

Amnesty International is concerned for the safety of Otto Peralta and Carmen Reyna, two leaders of the Asociación de Estudiantes Universitarios (AEU), University Students Association, of the University of San Carlos (USAC) following three incidents in which men who identified themselves as members of the National Police called on their homes and interrogated their families. The men questioned the families about the participation of Otto Peralta and Carmen Reyna in February 1991 at the 47th General Assembly of the United Nations (UN) Human Rights Commission in Geneva, Switzerland, where they both gave evidence to the Human Rights Commission on the human rights situation in Guatemala.

On 29 June 1991, a man dressed in plain clothes called at the Guatemala City home of AEU leader Carmen Reyna. Carmen Reyna was not at home. The caller showed the family a police badge and said he was a member of the Departamento de Investigaciones Criminológicas de la Policia Nacional (Criminal Investigations Department of the National Police). He asked the family detailed questions about Carmen Reyna's visit to Geneva to attend the UN. He wanted to know who had sponsored the visit of the AEU delegation, why the delegation went there and

what they did there. The family stated that the man filled in what seemed like an official police questionnaire. He also had details of the flights the delegation had taken to Geneva and how long they had stayed there. When the family asked why the police needed this information, they were told it was for Carmen Reyna's protection.

Following the incident, Otto Peralta, Secretary General of the AEU, as well as USAC Rector Alfonso Fuentes met on 12 July 1991 with the Minister of the Interior, Fernando Hurtado Prem. The Minister assured them that no investigation had been ordered by the National Police. On that same day, a man answering the same description as the one who went to Carmen Reyna's house visited the home of Otto Peralta. He was not at home at the time, but the caller again identified himself as being from the National Police and asked similar questions of Otto Peralta's family. On the following day, 13 July 1991, the same man called again at Carmen Reyna's house, this time in the company of three other men dressed in plain-clothes and driving a four wheel drive vehicle with foreign plates. They again asked the same questions of the family, and again insisted that the investigation was being carried out for the protection of Carmen Reyna and Otto Peralta. Amnesty International is concerned for the safety of Carmen Reyna and Otto Peralta and is calling on the government to investigate these incidents.

BACKGROUND INFORMATION

The AEU leadership and membership has been continually targeted under successive regimes in Guatemala. Amnesty International has documented scores of cases of students and their leaders who have been extrajudicially

executed or "disappeared" under military and civilian governments over the past 30 years. In August and September 1989, at least 12 students and staff from the USAC were "disappeared", seven of whom were subsequently found dead. A number of the victims were reportedly leaders of the AEU.

Since the new government of President Jorge Serrano Elías came to power in January 1991, Amnesty International has learned of increasing numbers of trade union leaders and members of popular movements, including the AEU, who have been subjected to threats, harassment, attempted abduction and possible extrajudicial execution. The choice of the victim and the manner in which these abuses have been carried out suggest the involvement of the security forces in the guise of the so-called "death squads". Many trade unionists and members of popular movements have been forced to leave the country.

RECOMMENDED ACTION: Telegrams/telexes/faxes/ express and airmail letters:

- expressing concern that individuals apparently posing as members of the National Police have been harassing Otto Peralta and Carmen Reyna in circumstances which raise fears for their safety;

- also expressing concern that these visits were made because of their legitimate work in monitoring the human rights situation in Guatemala;

- asking for an investigation into the incidents mentioned above, and that those found responsible be brought to justice.

APPEALS TO: [Suggested Salutation]
Jorge Serrano Elías [Excelentísimo Sr. Presidente]
Presidente de la República de Guatemala
Palacio Nacional (Telexes: 305 5331 CAPRES GU)
Guatemala, Guatemala
(Telegrams: Presidente Serrano, Guatemala, Guatemala)
(Faxes: 011 502 2 537472; 011 502 2 519702)
(Tel No: 011 502 2 21212; 011 502 2 22266)

Lic. Fernando Hurtado Prem [Señor Ministro]
Ministro de Gobernación
Despacho Ministerial
Oficina No. 8, Primer Nivel (Faxes: 011 502 2 518105)
Palacio Nacional (Telexes: 305 5085 MINGOB GU)
Guatemala, Guatemala
(Telegrams: Ministro Gobernación, Guatemala, Guatemala)
(Tel No: 011 502 2 21212, ext 500; 011 518105-6)

Cnel. Julio Enrique Paiz Bolaños [Señor Director]
Director General de la Policía Nacional
6 Avenida 13-71
Zona 1, Guatemala, Guatemala
(Tel No: 011 502 (2) 20221; 515158)
(Telegrams: Director Policia, Guatemala, Guatemala)

Sra. María Luisa Beltranena de Padilla [Señora Ministra]
Ministro de Educación
Ministerio de Educación
Palacio Nacional
Guatemala, Guatemala
(Tel No: 011 502 2 21212; 011 502 2 20162)
(Telegrams:
Ministra Educacion Beltranena, Guatemala, Guatemala)

COPIES TO:
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Procurador de Derechos Humanos
Avenida Simeón Cañas 10-61
Zona 2,
Guatemala, Guatemala

Diario Siglo XXI
7a Avenida 11-79
Edificio Galerias España, 6° piso
Zona 9, Guatemala, Guatemala

Ambassador
Embassy of Guatemala
2220 R St NW
Washington DC 20008

Lic. Alfonso Fuentes
Rector
Universidad de San Carlos
de Guatemala (USAC)

Ciudad Universitaria
Zona 12, Guatamala, Guatemala

Señores
Asociación de Estudiantes Universitarios (AEU)
Ciudad Universitaria
Zona 12, Guatemala, Guatemala

PLEASE SEND APPEALS IMMEDIATELY. Check with the Colorado office between 9:00 am and 6:00 pm, Mountain Time, weekdays only, if sending appeals after August 30, 1991.

APPENDIX C-7

"Urgent Action", *Amnesty International USA*, August 30, 1991

[LOGO]

AMNESTY INTERNATIONAL USA

URGENT ACTION PROGRAM OFFICE • P.O. BOX 1270 •
Nederland, CO 80466-1270 • 303-440-0913 •
FAX: 303-258-7881

UA 293 /91 30 August 1991

Possible Extrajudicial Execution
and Death Threats

GUATEMALA:
Marlon Alexander SCOTT MOLINA – student
Amilcar MENDOZA – student
Edwin Giovanni HIDALGO JEREZ – Trade Unionist

Amnesty International is seriously concerned at the possible extrajudicial execution of two students and one trade unionist, which took place in the early morning of 25 August 1991 in Guatemala City. Amnesty International is also concerned for the safety of the leadership of the Asociación de Estudiantes Universitarios (AEU), University Students Association, who have recently been receiving anonymous telephone threats.

At 3.00 am on the morning of 25 August, Marlon Alexander Scott Molina and Amilcar Mendoza, both students at the Faculty of Architecture at the Universidad de San Carlos (USAC), San Carlos University, along with Edwin Giovanni Hidalgo Jerez, an electrical worker and member of the Sindicato de Trabajadores del Instituto Nacional de Electrificación (STINDE), Electrical Workers Union, were reportedly shot and killed as they were walking on the street in Zone 5 of Guatemala City. All three bodies showed signs of having been given a tiro de gracia (a finishing shot in the head). One of the students, Marlon Scott was taken to hospital, but was dead on arrival. The other two died instantly.

Marlon Alexander Scott Molina and Amilcar Mendoza were also members of the AEU. The AEU has in the past few months been receiving a series of death threats. Most recently, AEU leaders reported that in mid-August they received anonymous telephone calls warning that four of their leaders were going to die. The AEU believes that the security forces may have been responsible for the three killings because of the manner in which they were carried out. Amnesty International has also learned that three student leaders of the Coordinadora de Estudiantes de

Educación Media (CEEM), High School Students Coordinating Committee, were being harassed and threatened by armed men. The CEEM attribute the threats to CEEM demands for adequate funding for secondary schools. Amnesty International is concerned for the safety of the membership and leadership of the AEU and the CEEM.

BACKGROUND INFORMATION

Student organizations have been continually targeted under successive regimes in Guatemala. Amnesty International has documented scores of cases of students and their leaders who have been extrajudicially executed or "disappeared" under military and civilian governments over the past 30 years. In August and September 1989, at least 12 students and staff from the USAC were "disappeared", seven of whom were subsequently found dead. A number of the victims were reportedly leaders of the AEU. (See Guatemala: Human Rights Violations Directed against Student Leaders, AI Index: AMR 34/52/89 of September 1989). In July 1991 Amnesty International expressed concern for the safety of AEU leaders, Otto Peralta and Carmen Reyna. They had been repeatedly questioned by men posing as members of the Criminal Investigations Department of the National Police about their participation at the 47th General Assembly United Nations (UN) Human Rights Commission in Geneva, Switzerland, where they had given evidence to the Human Rights Commission on the situation of human rights in Guatemala in February 1991.

APPENDIX C-8

"AEU Campus Headquarters Dynamited," *Weekly Briefs* (CERI-GUA Guatemalan News Agency), February 2-8, 1992, at 1-2

AEU Campus Headquarters Dynamited

The office of the University Students Association (AEU) and classrooms in the Schools of Chemistry and Pharmacy suffered considerable damages following the explosion of a high power bomb January 30, reported the daily *Prensa Libre*. AEU General Secretary Otto Peralta called the bombing an act of army intimidation against the AEU. "It's another example of army abuse of power," said Peralta. "If the president is the general commander he should control these terrorist acts against the civilian population." Peralta attributed the attack to AEU's holding a series of forums on the El Salvador peace agreement in addition to housing Committee for Campesino Unity (CUC) representatives in the AEU headquarters during the commemoration of the Spanish embassy massacre.

Defense Minister Jose Garcia Samayoa announced that the military will take Peralta to court on charges of slander and defamation for accusing the army of the AEU bombing. Army public relations (DIDE) spokesman Captain Julio Yon said the army will "exercise its full right in the courts to avoid continuous political manipulation and sensationalism on the part of certain groups or sectors."

Captain Yon said that Peralta is "an evil Guatemalan who on previous occasions has discredited his own country internationally" and he also criticized defamation campaigns aimed at the government and army. Yon's remarks

come in reference to the AEU leader's tour of Europe last year where he spoke before the 1991 United Nations Human Rights Assembly in Geneva. After his return from Europe, Peralta became the object of threats and harassment.

The University of San Carlos (USAC) condemned the attack against the AEU headquarters charging that the bombing was an attack on the democratic peace process. USAC demanded that the government explain the terrorist attempt and called on international solidarily to support united student and grassroots peace efforts. Byron Morales of the Unity of Labor and Popular Action (UASP) told Defense Minister Garcia Samayoa that the army would have to sue millions of Guatemalans for accusing it of human rights violations. UASP called the suit against Peralta a warning of repression to come.

APPENDIX C-9

"Intimidation Against Students Intensifies," *Weekly Briefs* (CERI-GUA Guatemalan News Agency), March 22-28, 1992, at 2

Intimidation Against Students Intensifies

A high-powered explosive was detonated at the San Carlos University school of chemistry and pharmacy. The explosion occurred about 100 feet from the office of the University Student Association (AEU). University spokeswoman Ada Alvarado condemned the bombing.

She said it is the fourth terrorist attack in three months. She said students are dedicating their educational efforts toward achieving peace, democracy and development for all Guatemalans.

In another incident, classes were canceled and 19,000 students evacuated after a false bomb threat was called in. AEU student leader Otto Peralta, who has received threats against his life this week, said the incidents were warnings against student and grassroots participation in the peace process. Peralta said a platoon of military and national police as well as the treasury guard raided the campus in an act of intimidation against annual student protests. Infiltrators are on campus to disrupt the events and identify student leaders, Peralta said.

APPENDIX C-10

" 'Powerful' Bomb Explosion at University Reported," *Guatemala City Teleonce Television*, March 26, 1992 (as reported in FBIS *Latin America Daily Report*, March 27, 1992, at 11)

'Powerful' Bomb Explosion at University Reported

PA2603232092 Guatemala City Teleonce Television in Spanish 1800 GMT 26 Mar 92

[Text] A terrorist bomb exploded on the evening of 25 March in a building of the University of San Carlos in Zone 12. There were no casualties, but there was considerable structural damage. The explosion occurred at 2130

in the third floor of the 10-story building of the School of Chemical Sciences and Pharmacy. Professors and students of that school and some workers were leaving the building when the bomb exploded.

The device was described as powerful by a document published on 26 March by the national university condemning the attack. The explosion shattered numerous glasses and damaged several doors of that building. In its document repudiating this action, the University of San Carlos voiced great concern over this new terrorist attack and made public its vigorous rejection of the use of such criminal practices.

In January, a bomb exploded at the headquarters of the Association of University Students, AEU. AEU Secretary General Otto Peralta accused the Army for this attack, and the Army sued him but later decided to withdraw the lawsuit. Peralta commented on this new attack on student buildings:

[Begin recording] [Peralta] This bomb is another attack of a repressive campaign against the university and popular organizations. As you know, since early this year the university has been the target of a number of attacks and violent actions, murders, and threats. This incident joins the chain of repressive actions against the university.

The primary aim is to silence the voice of the university. If they are not the culprits, we demand the Army and government clarify this and that they condemn and convict those responsible for these attacks. We demand this, and want them to do something about these kind of actions.

It is regrettable that there have been a number of violent actions against the university and not even one has been resolved. This shows evidently that there is no willingness to solve these kind of attacks.

[Unidentified reporter] What time did this happen?

[Peralta] It occurred at about 2145, according to the schools' security guards near the AEU office.

[Reporter] Did they report any suspicious people around the area?

[Peralta] They reported seeing some people in the area at that time that fled through the dark areas of the university, but they were unable to identify anyone because they immediately fled. Unfortunately, the university lacks an internal security force capable of capturing these people immediately. They reported seeing certain individuals but do not know who they were. [end recording]

Meanwhile, the authorities of the University of San Carlos held a news conference on 25 March [date as heard] at the Annex Room of the Superior University Council to establish their position on this attack. The following attended: Dr. Quesada, university secretary general; Mario Rolando Torres, personal adviser to the rector; Victor Alvarez, adviser to the Rector's Office; and Ana Alvarado, chief of the Publicity Office. She opened the conference:

[Begin recording] [Alvarado] All we know, as has been reported, is that this involves groups that oppose the university's contributions to the discussion of the country's problems.

[Reporter] [Question indistinct]

[Alvarado] The device caused considerable damage to the facilities of Building T-10. The estimated damage as of this moment amounts to 20,000 quetzales. The damage mainly consists of shattered glass and lamps, destruction of iron gates, and laboratory equipment in the third floor of the building.

[Unidentified speaker] The security guards could not catch anyone involved in this attack because of the time of the explosion and the size of the university campus. We repudiate this kind of intimidation that obviously seeks to neutralize the university's role in society. We urge the various segments of Guatemalan society to also repudiate this attack. We also urge them to continue coordinating efforts with us to democratize and to bring peace to our country.

We have no major details on this incident. We can report that we drafted a document to the government of the Republic requesting an investigation and voicing our hope that there will be an end to the atmosphere of uncertainty and impunity that prevails in Guatemala. [end recording]

APPENDIX C-11

"Security Forces Accused of Killing Student," *Panama City ACAN*, April 10, 1992 (as reported in FBIS, *Latin America Daily Report*, April 14, 1992, at 31-32)

Security Forces Accused of Killing Student
PA1104002592 Panama City ACAN in Spanish
1623 GMT 10 Apr 92

[Text] Guatemala City, 10 Apr (ACAN-EFE) – The University Students Association (AEU) of Guatemala has accused security forces of opening fire with machine guns on 100 students, killing a youth and wounding seven others.

Student Julio Rigoberto Cuc Quim was killed and Maria Isabal Cabeiro, Julio Felipe Sajche, Otoniel Estuardo Moran, Axel Oswaldo Morales, Alfonso Aldana Perez, Otto Rene Perez Figueroa, and Juan Armado Perez Lopez were seriously wounded in the attack.

The AEU told ACAN-EFE that the machine-gun attack occurred at 0030 (0630 GMT) while students were in the university auditorium preparing for the traditional buffoon parade of the "Strike of Dolores" (huelga de dolores) being held today to criticize government authorities.

The AEU also charged that ever since the strike began, "the repressive government forces have carried out a campaign of provocation and aggression against the students." On 8 April, during a theatrical event, "a group of soldiers" fired on the students, the AEU charged. These actions "prove once again that it is the Army and security forces who maintain terror and repression in Guatemala," the AEU added.

The AEU is demanding that President Jorge Serrano's government conduct an immediate investigation into the attack "staged by security forces" and order the masterminds severely punished. It also requests an immediate end to the general persecution and repression unleashed against university students and the elimination of that repressive corps.

The AEU said it will initiate formal actions against the government. It will hold the Army responsible for any incidents during the XCIV "Strike of Dolores" being held on 10 April.

Gonzalo Asturias, official government spokesperson, recognized that members of the so-called "Hunapu Plan," made up of the Army, National Police, and Treasury Police, were the ones who opened fire on the students. The official told ACAN-EFE: "All of them will be taken before the justice tribunals."

Unofficial sources said the incident occurred after university students blocked access to a vehicle that was transporting security forces. According to reports, the police tried to remove the "hoods covering the students faces, but the students resisted and got on top of the vehicles. That was when members of the security forces opened fire on the university students.

APPENDIX C-12

"Attacks Against San Carlos University Continue," *Weekly Briefs* (CERI-GUA Guatemalan News Agency), April 19-25, 1992, at 2

Attacks Against San Carlos University Continue

Arsonists set fire to the San Carlos University School of Humanities in Quetzaltenango – the fourth attack against university installations in three months. Students hold the government responsible for new violence against the university community which began in January when an explosion destroyed part of the University Student Association (AEU) offices and 15 classrooms in the Chemical Science Department. This same school building was bombed again in March. In February there was an attempted bombing of the university museum, fifteen professors received death threats and one professor and a student were murdered. On April 10, Hunapu forces opened fire on 100 students readying for the traditional "Huelga de Dolores" anti-government demonstration. Various versions have circulated about the events of the shooting and it is uncertain how many students may have been captured. Families of six students have reported their children are still missing.

Defense Minister Jose Garcia denies student charges that the attacks are part of a government attempt to harass the university community.

"Instead of fighting each other or becoming polarized, we should seek reconciliation and understanding," said Garcia. Thousands of students held a march to the National

Palace calling for the abolition of Hunapu and the firing of the interior and defense ministers.

APPENDIX C-13

"Guatemala – Student Killing Further Discredits 'Hunapú'," *Central America Report* (Inforpress Centroamericana, Guatemala City, Guat.), Vol. XIX, No. 14, April 24, 1992 at 112

Guatemala

Student killing further discredits "Hunapú"

One student is killed, seven others seriously injured and 15 reported missing after the special security force "Hunapú" opens fire on university students preparing for their annual protest parade, the Huelga de Dolores."

In the early morning hours of April 10, more than 200 students were preparing floats for their annual parade as part of the "Huelga de Dolores" celebration. The Huelga de Dolores, which began in 1898, is an annual event in which university students satirize the government, politicians, the military and others in various activities including a parade through the streets of Guatemala City. The students were in an area of the city where they traditionally met to prepare floats for the following day's parade and had blocked off the street, as was their custom. A truckload of the special security "Hunapú"* forces

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* *Hunapú is a mythical figure from the Popul Vuh, the sacred book of the Quichés. He was known as a great warrior who killed demons and saved the land.*

turned down the blocked-off street and an altercation began between them and the students. According to student witnesses, the disagreement was settled and the truck was pulling away when the security forces opened fire on the group. One student, Julio Rigoberto Cu Quim, was killed and seven others seriously injured. Students reported that as many as 15 others were missing following the shooting.

After the incident, 29 "Hunapú" members were taken into custody and charged. The attack was condemned by various sectors of Guatemalan society including the Superior Council of the University of San Carlos, where the assaulted students attended law school, the lawyers' association, the labor organization, UASP, and Ramiro de León Carpio, the governmental human rights ombudsman. Carpio blamed the killing on the ministers of defense and the government as well as the heads of the National Police, Treasury Police and Ambulatory Military Police, which make up the Hunapú force, accusations roundly denied by the various officials. Hunapú, created in March obstensibly to combat growing street crime, is widely viewed as a means for the military to reassert control into civilian affairs (*CAR* XIX 10).

Student leaders said that the attack was not an isolated incident, but part of a series of intimidations carried out against the student community in recent months. They noted that in the last few weeks while preparing for the parade, several times Hunapú security forces interrupted them, once firing shots in the air as students were about to begin an open-air theater performance. The student university association has also been under attack in

recent months, with its headquarters bombed and many students going into exile (*CAR* XIX 4).

Three days later, at an April 13 press conference, Minister of Defense General José Domingo Samayoa blamed the incident on the students saying they initiated the shooting and forced Hunapú troops to respond. None of the 29 security agents captured were allowed to make a statement until three days after the incident, coinciding with Samayoa's press conference.

Journalist Carlos Rafael Soto, writing a column titled "Who's Lying," in *El Gráfico* on April 16, stated that the army's role in civilian security was bound to sooner or later end in tragedy. He questioned the army's contention that the students had shot first, pointing out that initial army reports failed to mention the students' attack. "These supposed shots by the students against the police were the best argument that the army could have used. If they weren't brought forth at first, one can only think that they didn't occur and that they were concocted after the tragedy, to try to justify the police attack against the students, not as a savage and repressive act, but as a logical response to an armed attack."

The Association of University Students (AEU) has begun its own proceedings, apart from the charges the police and military officers face. In a formal accusation before a judge, accusing the ministers of defense and government as well as the heads of the three security forces of assassination, attempted homicide and grave injuries.

Fernando Hurtado Prem, the minister of government, announced that the army may withdraw from Hunapú in

May, saying that they are no longer needed because 1,000 new police officers have begun training at the National Police school.

APPENDIX C-14

"Policemen Attack Students," *Information on Guatemala* (Enfoprensa/USA), No. 475, May 4, 1992, at 3-4

POLICEMEN ATTACK STUDENTS

Members of the anti-riot squad of the National Police violently broke up a demonstration held by students of the National Central Institute for Boys (INCV) in city zone 1, on April 28. It was confirmed that security forces detained more than one hundred youngsters.

On the following day, police units carried out a similar action against students of the Central Normal School for Boys (ENCV), zone 13, who were protesting against the abuses suffered by their friends of Central Institute. One of the teachers explained that "the boys were carrying out a peaceful demonstration when police began beating them up, leaving 10 wounded who received no medical assistance by order of the police."

The parents of Amado Estuardo Lopez, aged 13, denounced on May 2 that their son received emergency treatment in a medical center after being beaten by the police who also forced him to drink chlorine seriously "upsetting his health."

The Student Coordinating Committee for Middle Education (CEEM) stated that their friends are still being held in the Preventive Detention Center in Zone 18 where they lack medical attention and are injected with unknown chemical substances.

"Prensa Libre" in its editorial of May 4 recommended that the youngsters be released, considered their detention illegal and confirmed that the place where they are being held hardly meets the conditions for the boys to be properly treated. President Serrano later announced a "hard treatment" to those students who insist on demonstrating.

APPENDIX C-15

"High School Students Attacked by Police, Army," *Guatemala Human Rights Update*, #9/92 (Guatemala Human Rights Commission/USA), May 4, 1992, at 4

High School Students Attacked by Police, Army A riot police unit, assisted by Kaibil (Army Special Forces) troops, broke into the Central Institute for Boys in Guatemala City and arrested 112 students. The students, who were reportedly sentenced to 45 days in prison, had apparently been blocking traffic and burning tires to protest the Government's failure to appoint needed staff to the high-school, which is located in Zone 1.

The day after the incident, students from another secondary school, the Normal Central School for Boys in Zone 13, were beaten by riot police during a peaceful

demonstration held to protest the mass arrest. Twelve students were seriously injured, and it was reported that 72 boys had been arrested. The incidents have provoked protest strikes at several other secondary schools.

APPENDIX C-16

"Students Released From Jail Show Signs of Abuse," *Guatemala City Siglo Veintiuno*, May 6, 1992, at 3 (as reported in FBIS *Latin America Daily Report*, May 8, 1992, at 15)

Students Released From Jail Show Signs of Abuse
PA0705165092 Guatemala City SIGLO VEINTIUNO
In Spanish 6 May 92 p 3

[Text] It was officially announced on 5 May that 160 students incarcerated at the Fraijanes Detention Center for Minors for rioting will be released today at 0800 by virtue of a decision adopted by three judges.

Antonio Calderon, first juvenile court judge, stated that during a meeting of Juan Jose Rodil Peralta, president of the judicial branch and the Supreme Court of Justice; National Association of High School Students representatives; and the human rights attorney, it was agreed to expedite the aforementioned measure.

Calderon stated that on 5 May he visited the installations of the Detention Center and confirmed that some youths had match burns on their faces and backs.

In addition, those affected told the judge that during their arrest, the police officers threw "a red powder" on them, causing vomiting and an allergic reaction. The youths said they were taken to the Detention Center without receiving medical attention.

Calderon confirmed that many of the detained students had sustained contusions on their legs, inflicted by the police. The youths said they will file penal charges against the policemen through their parents.

On the afternoon of 5 May, the courts began issuing liberation orders for the first group of students; therefore, most students will be released to their parents, the judicial official concluded.

After the talks, Rodil contacted the juvenile court judges urging them, if possible, to release the youths as a show of goodwill and to ensure that tranquillity returns to the student community and teachers' associations.

After analyzing the recommendations, the judicial officials, who are aware of the situation of the students arrested by the public force, agreed to dismiss the proceedings in an attempt to calm the population.

APPENDIX C-17

"Teenage Students Tortured and Threatened," *Weekly Briefs* (*CERI-GUA*, Guatemalan News Agency), May 10-16, 1992, at 3

Teenage Students Tortured and Threatened

Students from the Normal and Central Institutes who were arrested during recent protests over insufficient teachers say they were tortured and threatened while detained. Jorge Garcia of the National Association of Middle School Teachers (ANEEM) said some of the students say they were burned with a kind of powder, and others were removed to isolated locations where authorities then threatened to kill them.

Thousands of students and teachers from 32 capital schools demonstrated in front of the Presidential Palace on May 13. They demanded investigations of security actions during the student uprisings the last week of April, in which 188 students were arrested. ANEEM President Jorge Garcia demanded that the Interior Minister and two police chiefs be prosecuted for the attacks on Normal and Central students. Protesting students and teachers also demanded the release of the 28 students over 18 years old who are still in detention, and the resignation of the Education Minister. Garcia added that teachers support the students in demanding solutions to the educational crisis.

APPENDIX C-18

"Police Forced Student to Swallow Chlorine," *Guatemala Human Rights Update*, #10/92 (Guatemala Human Rights Commission/USA), May 18, 1992, at 1

Police Forced Student to Swallow Chlorine High-School student AMADO ESTUARDO LOPEZ (13) had to undergo surgery after riot police forced him to swallow chlorine and beat him on the esophagus. Lopez and approximately 10 other students from the Normal Central School for Boys were injured by police on April 28 during a student protest in Guatemala City. (See Human Rights Update #9 and other stories in the current Update.) Lopez's parents have demanded that criminal proceedings be brought against those responsible.

The Secondary School Students Coordinating Committee (CEEM) says that other students remaining in jail are being denied medical attention for their injuries.

APPENDIX C-19

"Bomb Scares in High Schools Continue," *Guatemala Human Rights Update*, #12/92 (Guatemala Human Rights Commission/USA), June 15, 1992, at 3

Bomb Scares in High Schools Continue Both the Oscar de Leon Palacios high school and the adjacent Maria Auxiliadora high school in Barrio La Independencia, Coatepeque, Quetzaltenengo were evacuated on May 28

after receiving telephoned bomb threats. In recent months students have organized to pressure for improved teaching materials and study programs, and their efforts have been met with violent repression. The May 31 killing of Dr. Oscar Enrique Ponce Flores of USAC is the latest example of how attacks on educators and students have increased in recent months. (See EXTRAJUDICIAL EXECUTIONS above.) Students believe that these attacks are an attempt by security forces to silence their activities.

APPENDIX C-20

"Urgent Action Appeal" *Amnesty International*, July 9, 1992

[LOGO]

URGENT ACTION APPEAL

URGENT ACTION PROGRAM OFFICE • P.O. BOX 1270 •
Nederland, CO 80466-1270 • 303-440-0913 •
FAX: 303-258-7881

UA 230/92 9 July 1992
GUATEMALA

Possible Extrajudicial Execution
Rodnery RODRIGUEZ VALDIZON, aged 26
Emilio GONZALEZ GUERRA, aged 26
Luis MORALES ZAVALA, aged 25

Amnesty International is concerned at the killing on 5 July 1992 of agronomy engineer, Rodnery Rodríguez Valdizón, and students Emilio González Guerra and Luis

Morales Zavala in circumstances suggesting possible security force involvement.

At about 6:30 am on 5 July 1992, Emilio González Guerra and Luis Morales Zavala, both students at the Economics Faculty of the Universidad de San Carlos (USAC), San Carlos University, drove Rodnery Rodríguez Valdizón, also a member of USAC to the airport where he was due to fly to Petén department in northern Guatemala. According to the information made available to Amnesty International, as they were approaching La Aurora Airport in Zone 13 of Guatemala City, another car intentionally collided with the vehicle they were driving. Several unidentified armed men got out of the other car and shot at them with machine guns. All three were killed immediately.

Amnesty International is concerned that the manner in which the killings were carried out, ie in broad day-light, in an area normally under surveillance by the security forces, and the involvement of unidentified men in plain clothes using automatic weapons, suggests that they may have been carried out by members of the security forces or those working with their connivance in the guise of so-called "death squads". Amnesty International's concern is heightened at a time of increased human rights violations against university staff and students

BACKGROUND INFORMATION

In recent months, leaders of human rights and trade union organizations, students and university teachers have been the subject of a renewed wave of threats and intimidation. On 14 May 1992 Andrés Ramírez Lara, a

university lecturer at the Faculty of Economics, and José Arana Paz, a student at the Faculty of Psychology at the USAC, were killed in circumstances suggesting official security force involvement. Andrés Ramírez Lara had previously received anonymous death threats. On 10 April 1992, one student was killed and seven others wounded when members of the Hunapú (Hunters) security force unit opened fire on a group of students, who were preparing for their traditional Easter celebrations. In February 1992, university lecturer Pedro Us Soc and his wife Floridalma Ixtahualán received a series of threats, apparently linked to their association with Manuel Estuardo Peña, a professor of History at the USAC, who was shot "death-squad" – style.

President Jorge Serrano Elías came to power in January 1991. During his presidential campaign he had pledged to ensure protection of human rights. However, Amnesty International remains seriously concerned at continuing human rights violations in Guatemala, including extrajudicial executions, death threats, torture and "disappearances". Even in cases where the identity of the perpetrators is unclear, the choice of victim and the manner in which the abuses have been carried out frequently suggest the involvement of members of the official security forces.

APPENDIX C-21

"Bomb Found in Theater," *Weekly Briefs* (*CERI-GUA* Guatemalan News Agency), August 2-8, 1992, at 3

Bomb Found in Theater

Students presenting a play on human rights were the target of a bomb threat, *Radio Independiente* reported August 5. The students at the Western University Center (CUNOC) in Quetzaltenango say an anonymous caller warned them a bomb had been placed in the theater. Police found the bomb hidden in a plastic container and deactivated it. The students say that despite the warning, they will continue to present the play, "no matter what the price."

APPENDIX C-22

"AEU Offices Bombed," *Guatemala Human Rights Update*, #20/92 (Guatemala Human Rights Commission/ USA), October 5, 1992, at 4

AEU Offices Bombed. On October 5, at 7:15 p.m., two bombs exploded at the offices of the Association of University Students (AEU) at the main campus of the University of San Carlos in Guatemala City. The bombs apparently had been planted beneath the windows, outside the building. The explosion caused extensive structural damage to the windows, the building, and equipment and furniture in the offices. Reports of injuries to students in the building at hour of press had not been confirmed, but at least one student was injured and taken

to the hospital. *El Grafico* reported on October 6 that as many as five students were injured in the explosion.

Since the bomb attacks on the offices in January and February of this year (see Human Rights Update #3, #4, 1992), students at the AEU offices have received numerous bomb threats from anonymous callers. OTTO PERALTA, president of the AEU, has received numerous death threats, and he reports that he is under constant surveillance.

In response to these attacks, the Center for Human Rights Legal Action, in Washington, DC, has filed a complaint against the Guatemalan government with the Inter-American Commission on Human Rights of the OAS.

APPENDIX C-23

George Rodríguez, "Attacks Denounced as Part of a Campaign of Terror," Inter Press Service (PeaceNet), October 9, 1992 [as reported in *Central American News-Pak* (Documentation Exchange, Austin, TX), Vol. 7, No. 18, October 5-18, 1992, at 8]

ATTACKS DENOUNCED AS PART OF A CAMPAIGN OF TERROR

Inter Press Service (PeaceNet)
9 October 1992

by George Rodríguez

GUATEMALA, Oct. 6 (IPS) – Bombing attacks against a student organization and a weekly magazine in Guatemala City Monday night were denounced by the victims on Tuesday as part of a campaign of intimidation.

"This is part of a terrorist campaign against the labor and popular movements, to prevent their participation in the peace process," Otto Peralta, the secretary general of the Association of University Students(AEU), said.

At a press conference, Peralta condemned the bombing attack against AEU's headquarters on the grounds of the San Carlos State University (USAC), in the western part of this capital city.

Journalist Hugo Arce, director and columnist for the magazine *Tinamit*, said the bombing of *Tinamit's* office was "new repression against the press."

The nearly simultaneous bombings caused extensive material damage, but no injuries.

The bombing at the university was the third attack against the student organization. After a similar bombing on January 30, Peralta accused the military of responsibility.

Peralta said that AEU has received "numerous anonymous letters and threatening phone calls" since April 10, when one student was killed and six others injured in the confrontations with the military security police, Hunapu.

The student leader said the attack was part of the particularly intense harassment this year, which "has prevented the university from academically addressing the nation's problems."

Peralta pointed out that USAC recently published the book *Massacres in the Jungle*, but was forced to cancel its official release last month following a series of threats against university personnel.

Speaking minutes after the attack against *Tinamit*, Arce said that a week ago, following the publication of an article critical of an army official, the magazine received a threat that "something was going to happen."

"They did not specify what it would be, a bomb or a personal attack."

Calling the bombing "a threat against all the press," Arce said the attack against *Tinamit*, a publication often critical of the government, comes a little more than a year after numerous media sources – including IPS – were the targets of threats, and in some cases, direct aggression.

On Tuesday, the Association of Guatemalan Journalists (APG) issued a declaration stating that the attack "violates the constitution and existing laws protecting the press."

Monday's bombings are the first attacks since the wave of aggression that swept this capital between late May and the end of April.

The two attacks occurred just hours before the end of a 10-day visit by Christian Tomuschat, the United Nations Observer for Human Rights to Guatemala, to evaluate the human rights situation.

In January, Tomuschat will present a report of his findings to the United Nations Commission on Human Rights. Tomuschat was appointed by the U.N. Commission based on reiterated charges of human rights abuses in Guatemala, attributed primarily to the army and paramilitary groups and, to a lesser extent, to rebel groups.

APPENDIX C-24

"Urgent Action Appeal" ***Amnesty International*** **October 8, 1992**

[LOGO]

URGENT ACTION APPEAL

URGENT ACTION PROGRAM OFFICE • P.O. Box 1270 •
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FAX: 303-258-7881

UA 313/92 Death Threats/Intimidation 8 October 1992

GUATEMALA: Members of the Asociación de Estudiantes Universitarios

Amnesty International is seriously concerned for the safety of members of the Asociación de Estudiantes Universitarios, AEU, and for the safety of those students involved in court proceedings against members of Hunapú, the Guatemalan special security force unit.

On 5 October 1992, a bomb exploded outside the offices of the AEU at the Universidad de San Carlos (USAC) in Guatemala City. The bomb explosion follows a series of death threats received by members of the AEU and students involved in a legal action against Hunapú. Hunapú were responsible for the killing of 10 April 1992 of student Julio Cu Quim.

The AEU reported that during May 1992 several students were followed by armed men in plain clothes. They also reported receiving written death threats, which demanded that the students involved in the legal action against members of the Hunapú unit withdraw their action. Otto Peralta, AEU president, also reported that armed men riding a motorcycle were watching his house and noting the movements of his family. The girlfriend of

one of those injured during the 10 April 1992 incident reportedly received an anonymous written death threat which stated "we are aware that you are the people who head the list of eight people who will be eliminated, if you continue your accusations against members of Hunapú".

A relative of Axel Morales Gaytán, another of the students wounded on 10 April 1992, also received an anonymous letter, similar to the one above, which threatened that the next time they would kill members of the families of those bringing legal actions against the security forces.

In August 1992 a written death threat signed by "Members of the Security Forces", invited five AEU members, Axel Morales, Otto Pérez, Julio Sanchez, Hugo Gudiel and Otto Peralta to a meeting at the "La Villa" Cemetery on 25 August at 3.00 p.m. The letter said that the motive for the meeting was to reach a solution with those persons affected in relation to the events of 10 April 1992. The death threat was sent directly to an individual who for security reasons does not wish to be named, but who was also invited to the meeting and threatened that "We don't want blood, you will be the person most affected if the conditions we ask for are not adhered to". Among the conditions were that no publicity be given to the letter and that no member of the media attend the meeting.

A second bomb exploded on 5 October 1992 at the offices of the weekly magazine Tinamit. Tinamit has published articles critical of the government and has reportedly received death threats as a result. Amnesty International

is concerned for the safety of journalists and workers at Tinamit magazine.

BACKGROUND INFORMATION

Journalists, as well as students and university teachers have in recent months been the object of repeated human rights violations, threats and intimidation. On 14 May 1992 Andrés Ramírez Lara, a university lecturer at the Faculty of Economics, and José Arana Paz, a student at the Faculty of Psychology at the USAC, were killed in circumstances suggesting official security force involvement. Andrés Ramírez Lara had previously received anonymous death threats. In February 1992, university lecturer Pedro Us Soc and his wife Floridalma Ixtahualán received a series of threats, apparently linked to their association with Manuel Estuardo Peña, a professor of History at the USAC, who was shot "death-squad"-style. A bomb was planted in the AEU building on 30 January 1992.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters:

- expressing concern at the bomb attacks and threats and intimidation directed against leaders and students of the AEU;
- asking for an immediate investigation into these incidents, including the bombing of the offices of Tinamit magazine and that those found to be responsible be brought to justice;
- asking for guarantees for the security of all students, citing especially those students named in the death threats as being targeted because of their involvement

in a legal suit against the security forces and for the safety of workers and members of Tinamit.

APPEALS TO:	**[Salutation]**
S.E. Jorge Serrano Elías Presidente de la Republica de Guatemala Palacio Nacional Guatemala, GUATEMALA	[Sr. Presidente/ Dear President] (Telexes: 305 5331 CAPRES GU) (Faxes: 011 502 2 537472, 011 502 2 519702) (Telephone: 011 502 2 21212, 011 502 2 22266)
Lic. Ramiro de León Carpio Procurador de Derachos Humanos Avenida Simeón Cañas 10-60 Zona 2, Guatemala, GUATEMALA	[Sr. Procurador/ Dear Mr. Procurator] (Human Rights Procurator) (Faxes: 011 502 281734) (Telephone: 011 502 2 300874 – 76)
Gral. José García Samayoa Ministro de Defensa Ministerio de Defensa Palacio Nacional Guatemala, GUATEMALA	[Sr. ministro/ Dear Minister] (Minister of Defence) (Telexes: 305 5361 COMGUA GU) (Telephone: 011 502 2 21212, 011 502 2 2226)
Lic. Juan José Rodil Peralta Presidente de la Corte Suprema de Justicia Centro Cívico 21a Calle y 7a Avenida Guatemala, GUATEMALA	[Sr. Presidente/Dear Mr. President] (President of the Supreme Court) (Telephone: 011 502 2 84323, 011 502 2 843203-08)

COPIES OF YOUR APPEALS TO:
Lic. Acisclo Valladares Molina
Procurador General de la Nación (Attorney General)
Procuraduría General de la Nación
18 Calle 10-36
Zona 1, Guatemala, GUATEMALA

(Head of the Presidential Coordinating Commission of the Policies of the Executive relating to Human Rights)
Sr. Barnardo Neumann

Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de Derechos Humanos (COPREDEH)
15 Avenida 18-38, Zona 13
Guatemala, GUATEMALA

(University Students Association of the University of San Carlos) Asociación de Estudiantes Universitarios (AEU)
Ciudad Universitaria
Zona 12, Guatemala, GUATEMALA

Ambassador Juan Jose Caso-Fanjul
Embassy of Guatemala
2220 R St. NW
Washington DC 20008

PLEASE SEND APPEALS IMMEDIATELY. Check with the Colorado office between 9:00 am and 6:00 pm, Mountain Time, weekdays only, if sending appeals after November 19, 1992.

APPENDIX C-25

Guatemalan Student Initiative, *Home Page*, www.alternativemedia.org/gsihome.html

Guatemalan Student Initiative

About The Guatemalan Student Initiative

The Student Movement in Guatemala is among the most persecuted sectors of the population, yet the students remain one of the strongest groups opposed to the military in Guatemala.

GSI is a project designed to provide contacts and support between U.S. and Guatemalan students and faculty at the university and high school levels.

Our goal is to use the video *No nos tientes (Don't Tempt Us: The Students of Guatemala)* to help educate U.S.A. and other international students about Guatemala and to encourage them to get involved in human rights projects for Guatemala.

ASPECTS OF THE GSI PROJECT

* Direct Internet contact with Guatemalan Students/Teachers
* Video about the Student Movement
* Sister Schools
* Guatemalan Student Speakers
* Delegations to Guatemala
* January Term Projects in Guatemala
* Letter Writing Campaigns

Students from Guatemala carry the remains of Abner Orellana a high school student gunned down for protesting the bus fare price hike. (Scene from the Video "No nos Tientes"©)

APPENDIX C-26

Guatemalan Student Initiative, *"About the Video No Nos Tientes! (Don't Tempt Us: The Students of Guatemala),"* www.alternativemedia.org/gsi3home.html

Guatemalan Student Initiative

ABOUT THE VIDEO

No nos tientes!
(Don't Tempt Us: The Students of Guatemala)

"A great achievement in documentary filmmaking" – ***La Raza, Chicago***

"North American Students would do well to see young teens whose participation in political strife is not merely fashionable" **Video Librarian** Jan/Feb 1996

No nos tientes is an award winning documentary on the Student Movement in Guatemala. It reveals the personal stories of struggle by high school and college students who represent the vanguard of social change.

Since 1954 when the CIA helped orchestrate the overthrow of the democratically elected government of Guatemala, the country has been plagued by right wing political violence. The military and paramilitary death squads have executed or disappeared more than 150,000 Guatemalans.

Thousands of teachers and students have been murdered or disappear. *No nos tientes* examines the social conditions which lead the students to risk their lives to combat this culture of fear and silence in Guatemala.

Narrated by **Edward James Olmos**
Directed by **Christine List**
Produced by **Amy Beer and Christine List**

50 minutes, 1995, Available in English or Spanish

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(Includes STUDY GUIDE for high schools
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5950 West Erie, Chicago, IL 60644
USA

Tel. 312-261-2107

For Information on the Video or to get in touch with the Producer submit your E-mail Request to the address below.
GSI Coordinator

In the Memory of Oliverio Castañeda de León and the many unsung heroes of Guatemala.

Dr. Mario Larrave a dear professor who was killed for teaching that all men are created equal.

Contact Guatemalan Students Via E-Mail.

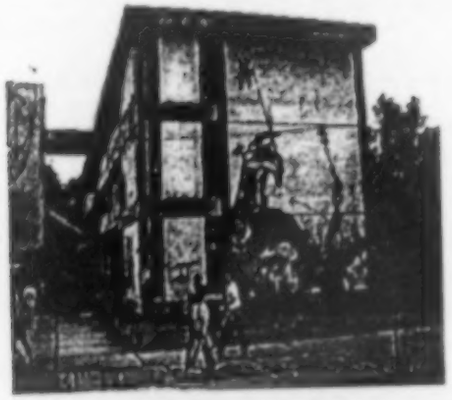
We would like to apologize to all the people who have sent messages to the above address and received no answer. Due to Guatemalan Government regulations the exchange of E-Mail with students could be seen or perceived as a threat to the Guatemalan National security. The Guatemalan telephone company has stated that they will monitor incoming and outgoing electronic mail. This has added further risk to the students and their cause for democracy. We will keep you informed of these developments and new ways to reach the students and show your support for their struggle.

Awards:

Audience Choice Award for Best Video,
Chicago Latino Film Festival, Bronze
Apple, Nation Educational Media Festival
Cine Eagle, CINE Foundation

Festivals and Screenings:

American Film Institute, L.A. Video Festival
United Nations Conference on Human Rights, Vienna Austria
Seattle Human Rights Festival
San Antonio Cine Festival
First Annual Festival of Latin American Video, Havana Cuba
Cine Festival Latino, San Francisco
Latin American Studies Association Conference
Union for Democratic Communications Conference



The University of San Carlos De Guatemala Campus.

Recommended for:

Universities/High Schools/Libraries

Latin American Studies
Peace Studies
Sociology
Psychology
Political Science
Multicultural Studies
Anthropology
International Studies

Topics Covered in the Video:

Attacks on students and teachers in Guatemala
The role of students in the 1993 coup
The psychology of torture by repressive regimes
How grassroots movements develop among students
Connections with broader social movements
Historic perspective of the war in Guatemala
How the students are creating a culture of liberation
The guerilla movement and the struggle for democracy

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APPENDIX C-27

Alternative Media, *"No Nos Tientes: (Don't Tempt Us) The Students of Guatemala" Teacher Manual*, www.alternativemedia.org/gsi_study%20guide.html

No Nos Tientes: (Don't Tempt Us) The Students of Guatemala

Teacher Manual

Alternative Media
2950 W. Erie Street
Chicago, IL 60644
(312) 261-2107

http://www.alternativemedia.org/

No Nos Tientes

No Nos Tientes: The Students of Guatemala, a video documentary, describes the role of the student movement in the Guatemalan struggle for human and civil rights. The documentary explains why movements of mass protest and armed struggle exist in Guatemala and shows how the student movement has served as a training ground for current grassroots political leaders.

Because of the crucial political role of the student movement, students have been targeted for death and torture with more frequency than perhaps any other opposition movement in the country. The video chronicles the repression against students and examines why students would choose to become involved in activities that could cost them their lives.

The purpose of this manual is to provide additional information that will help in discussion of the issues raised in

the video. The Guatemalan Student Initiative, a project linking U.S. and Guatemalan students, maintains a Web Site on the Internet that provides current information about student activities, the peace negotiations, and the 1995 elections.

Video running time: 52 minutes. Available with English or Spanish subtitles. To order, send check or money order to:

Alternative Media
5950 W. Erie Street
Chicago IL 60645
(312) 261-2107

Purchase Prices:
Universities and Colleges: $125
High Schools: $65
Community Organizations and Individuals: $20
(Call for rental prices.)
Please add $5.00 for shipping and handling.

For more information about the Student Initiative, visit the Web Site or write to:
Student Initiative Coordinator
Casa Guatemala
4554 N. Broadway Suite 273
Chicago, IL 60640.

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Guatemala is a country that bleeds. Massacres, kidnappings and displacement of people from their villages are extensive; 46,000 people have disappeared and are presumed dead.

Ninety percent of these victims of repression and violence are indigenous Maya Indians. Everybody knows where

the clandestine cemeteries are. Everyone knows who does the killing. And everybody knows it is done with impunity.

Rigoberta Menchu, 1992 Nobel Peace Prize Laureate.

Introduction

Guatemala is a country of more than 9 million citizens, over 60% of whom are indigenous Maya, Garifuna and Xinca. The country is rich in natural resources, but unequal land distribution and a lack of job opportunities means that more than 89% of the population lives in poverty, lacking the resources to adequately feed, house or clothe itself.

For over 30 years, a civil war has raged between the Guatemalan government and the National Guatemalan Revolutionary Unity (the "URNG"). With no respect for the rules of war or for international human rights, the Guatemalan security forces (military, police and paramilitary death squads) have killed and tortured hundreds of thousands of men, women and children, the vast majority unarmed civilians. In Guatemala, activism for any kind of social change can mean death, because of the chokehold maintained by the military over the civilian population. While the United States has often publicly denounced human rights violations in Guatemala, its policies have had the effect of insuring that the violence will continue.

As Rigoberta Menchu said at the time she won the Nobel Prize, peace in Guatemala is not only a matter of ending the war between the guerrillas and the army. That battle is not the problem: it is but is a symptom of the more

fundamental problems of poverty, discrimination, and the absence of rule of law and a free civil society.

Statistics on Guatemala

Poverty: Sixty-four percent of the urban population and 72% of the rural population of Guatemala live in poverty, with an annual per capita income of under $60. Only 33% of the population is considered "fully" employed. Many businesses do not pay taxes nor do the majority belong to the social security system, so workers generally receive no benefits such as health insurance, unemployment or disability insurance, or retirement pensions.

Health: At least one half of the population has no access whatsoever to health care. The national health care system covers only slightly more than 25% of the people. Only 20% of the country's doctors work in rural areas (60% of the population lives in rural areas). Over 80% of infants are malnourished, according to the World Health Organization, and as a consequence of malnutrition, 250,000 children under the age of 5 show some degree of mental retardation.

The Guatemalan government's statistics show that 24 babies out of 1,000 die before their first birthday and 100 out of 1,000 die before the age of 5. Only about 2 out of 10 births take place in a hospital.

Fewer than one-fifth of Guatemalan houses have running water or sewage systems. Approximately 90% of rural

water sources are polluted and unfit for human consumption. Guatemala has been in the throes of a cholera epidemic for several years as a result of lack of access to clean, safe drinking and cooking water.

Education: The government estimates that half of the population cannot read and write at all. Of the remaining half, one person out of two is functionally illiterate. In 1992, the Minister of Education estimated a shortage of 20,000 teachers. School is taught virtually completely in Spanish, a language many of the indigenous children do not speak or understand, and the curriculum is based on European culture and does not include any reference to indigenous culture or history.

Brief History of Guatemala

1. The Roots of Inequity

The crisis in Guatemala's economy and social situation results from three centuries of colonial rule, followed by almost 150 years of government by military dictatorship. At the time of the Spanish conquest in 1524, Guatemala's fertile land was mostly populated by the Maya Indians, who lived in the southern part of today's Mexico, and in Honduras, Belize and Guatemala. The Mayan way of life was primarily agrarian, although the Maya also achieved important advances in architecture and astronomy and other sciences. The land holds a central position in Mayan mythology and culture, and so agriculture was as much a cultural activity as a means of subsistence.

Under colonial rule, the Maya lost not only their means of subsistence but also elements of their historic culture and

way of life. The descendants of the conquistadores, people of mixed European and indigenous heritage known as "Ladinos," appropriated the land, carving it up into large plantations to grow cocoa and indigo for dye. During the colonial period, discrimination and repression of the indigenous people was institutionalized. While the Maya in what is now Guatemala were not exterminated as the native Americans in the United States, Mexico, and much of the rest of Central America were, they were enslaved and forced to work the plantations. Villages were controlled by Catholic priests, who attempted to convert the Maya, and by colonial officials, who required the indigenous people to wear special clothing to identify their place of origin and to restrict their freedom to travel.

In 1821, Guatemala became independent from Spain, as part of the Central American Region, but the Guatemalan land was immediately annexed to Mexico. Two years later, Guatemala broke away as part of the "United Provinces of Central America," a federation that lasted until 1839. Upon the dissolution of the union, Guatemala began to be ruled by the first of a series of military dictators.

The years of military dictatorship have left a legacy of unequal distribution of Guatemalas primary resource, land. Agriculture remains the countrys principal economic activity, with coffee and bananas replacing cocoa and indigo as the main crops. Over 85% of the land is held by large holders, many of whom have had close family ties to the military rulers. While the majority of landless Guatemalans work at least part of the year on the plantations, some farm small plots of their own, often unable to grow enough food to feed their families, and

increasing numbers are employed in factories mostly owned by foreign, multinational corporations.

The United States has played a large role in the economic and social development of Guatemala. In the early 20th century, the United Fruit Co., a U.S. exporter of bananas, was Guatemala's largest landowner. In 1904, in exchange for building a railroad across the country, United Fruit was granted thousands of acres along the fertile Atlantic coast; in 1936, Jorge Ubico, the first elected President of Guatemala, gave United Fruit more land along the Pacific coast, complete tax-exemption, including freedom from export duties, and a guarantee of low wages. By this time, United Fruit was Guatemalas largest landowner, employer and exporter.

II. Student Protests and the Development of a Movement for Human Rights

Since the beginning of the 20th century, university students have been at the vanguard of movements for social change. The first mass student protests were in 1920, but it was not until 1944 that the students were successful in leading a movement to bring down the government of the unpopular military dictator, Jorge Ubico. As part of a growing middle class of teachers, professionals and intellectuals who demanded greater political and economic freedom, the student movement was instrumental in bringing about the resignation of Ubico, who was notorious for his purge of leftists and suppression of trade unionists.

In June 1944, a student strike, demanding university autonomy from government control, mushroomed into a

general strike in Guatemala City, after the government denied the students' demands, suspended constitutional guarantees, and fired on anti-government demonstrators, killing one. Ubico was forced to resign within one week. A military junta took over the government, replacing Ubico with Emilio Ponce as President.

When it became apparent that Ponce had no intention of holding elections, armed students and workers joined dissident military officers to oust Ponce. An interim junta, headed by two army officers and a civilian, held congressional and presidential elections, and on March 15, 1945, Juan Jose Arevalo became president. Modeled in many ways after the Roosevelt New Deal, President Arevalo's government was committed to democratic values, emphasizing improvement of education and literacy rates and protection of the rights of workers.

President Jacobo Arbenz, Arevalo's successor in 1951, continued the reforms, including an agrarian reform law to redistribute idle, uncultivated acreage from large landholders to farmers. The land reform law increased productivity; more importantly, small farmers were able to provide themselves with food and even a small amount of cash from sales, and they became involved in the Guatemalan political system for the first time in 400 years.

III. Backlash and Increased Repression

The United States planned and ordered the overthrow of Guatemalas first and only reformist government.

Arbenz's agrarian reform plan was bitterly opposed by the shareholders of United Fruit Company, who challenged the government's valuation of their land, although the valuation was that used on tax returns filed by the company itself. United Fruit shareholders were supported by U.S. Secretary of State John Foster Dulles and his brother CIA director Allen Dulles, who both had business ties to United Fruit before entering the government. The U.S. government initiated a destabilization campaign, accusing Arbenz of being a Soviet sympathizer, and finally assisting "Liberation Forces" to enter Guatemala, on the pretext that U.S. intervention was necessary to stop the spread of communism. Arbenz was forced to resign and was replaced by Colonel Carlos Castillo Annas, the chosen favorite of the U.S. government.

The U.S.-instigated overthrow of the Arbenz government began a new era of repressive military rule, during which the government declared war on members of the reform movement and on the indigenous population. The reforms of the previous ten years, including land reform, social security and workers' rights, were dismantled. An extensive apparatus of repression was developed, including a vast network of secret detention centers, chambers of torture, and clandestine cemeteries; and a security and surveillance system based on the Israeli model. The intelligence police, known as the "G-2" was organized, and the military and other security forces began to operate

secret forces, called death squads, who abduct or assassinate victims at any hour of the day or night, in their homes, on their way to school, to work, to church, or anywhere in the country. In addition to assassination or abduction, suspected opponents of the government were frequently harassed by anonymous death threats delivered by telephone or in person, or even published, signed by right-wing, government-sponsored groups. The death threats were used to create a climate of fear to discourage people from joining opposition groups and to paralyze the groups themselves.

The increasing repression led the national university, the University of San Carlos (USAC) as an institution, to become active in political struggles for the first time in the early 1960's. In 1962, allegations of fraud in Congressional elections led to mass protests, where large numbers of secondary school students joined the university students. Government security forces invaded the university's School of Law. The university issued a formal protest and eventually demanded the resignation of President Miguel Ydigoras Fuentes after the murder of three students by the military police on the day of the annual student Strike of Sorrows ("Huelga de Dolores"), a parade to commemorate the deaths of students and to protest against government violence and repression.

Opposition to widespread corruption in President Ydigoras' government led to the formation of the first armed opposition, or guerrilla, movement, by a group of reformist military officers. Although the guerrillas never numbered more than 500 during the 1960's, they provided a convenient rationale for the killing of hundreds

of thousands of civilians, on the pretext that they were, or supported, the guerrillas.

While there were students who fought with the guerrillas, many did not, but the government-sponsored violence against the university community continued: students were murdered and kidnapped; various university buildings were shot at by land and by helicopter. The situation became serious enough that the Guatemalan president demanded a meeting with the rector and docents of the university, during which the President accused the university of being the head of the guerrilla movement.

By 1970, when General Carlos Arana Osorio took office as president, the armed opposition movement had been decimated by the military. During the 1970's, alongside of a growing civilian movement for change, the guerrillas emphasized popular education and political training of the indigenous population. The 1970's saw the growth of peasant and labor unions, which enlisted increasing numbers of members to organize to fight peacefully against government repression. The misery of urban Guatemalans was exacerbated severely by the 1976 earthquake, which killed 25,000 people and left 1.25 million homeless, exacerbating the poverty and hunger of the urban population.

As the popular movements began to organize and the armed opposition movement regained its strength, the government responded with the most violent wave of repression so far. In 1978, Dr. Mario Lopes Larrave, ex-Dean of the USAC law school, was machine-gunned to

death. In the same month, student leaders Robin Garcia and Anibal Leonel Caballeros were also executed.

By the late 1970's the guerrilla organizations had formed four separate organizations. By 1980, there were 5,600 armed combatants. In 1982, the four separate organizations that had developed merged to form the Guatemalan National Revolutionary Unity (the "URNG"), which serves as the diplomatic and military command of the armed revolutionary movement.

In 1980, General Romeo Lucas Garcia was appointed president. As had his predecessors, Lucas Garcia targeted the University of San Carlos. The military also tortured and killed hundreds of union members and leaders, Mayan clergy, and community organizers. Thirty-nine people, including several university students, were killed when the government ordered the police to attack the Embassy of Spain, where farmworkers from the Northern highlands had gathered to publicly read a list of grievances on behalf of victims of the growing repression. Ignoring the Embassy's sovereign immunity, the police burned the building, leaving just two survivors, the Spanish Ambassador and one of the farmworkers. The farmworker, Gregorio Yuja Xona, was abducted from his hospital bed on the night of the attack; his tortured body was found the next morning at the national University of San Carlos. Spain broke off diplomatic relations with Guatemala, but both the U.S. and Guatemalan governments dismissed the incident, calling the victims (who included the ex-Vice President of Guatemala), members of a radical student organization. In 1981 and 1983 the rectors (presidents) of the university were killed; another fled into exile, in fear for his life. Another 36 students and

10 teachers were killed or "disappeared" in 1984 and 1985 alone.

From 1982 to 1985, each president of Guatemala was displaced by a military coup. During the presidency of General Efrain Rios Montt, an Evangelical Christian who believed that his actions were divinely inspired, the bloodiest yet campaign was waged to destroy the growing armed and civilian opposition movement. Indigenous communities and villages in the northernmost provinces of Guatemala were subject to a policy of "scorched-earth." Saying that these people were supporting the guerrillas by providing them with food, the military tortured and killed thousands of civilians, including children, and burned over 400 villages to the ground to eradicate any hope of survival. An exodus of hundreds of thousands of Maya fled across the border to Mexico. Some were placed into international refugee camps, which the Guatemalan security forces infiltrated and even bombed. Other communities vanished into the dense jungle areas, setting up mobile villages that could be dismantled at a moment's notice. These communities became known as the "Communities of Population in Resistance;" their existence was virtually secret until the early 1990's when representatives of the groups began to come to the capital to participate in the popular movement.

In the early 1980's the government began to institutionalize growing numbers of the indigenous civilian population in "model villages." These villages were re-education camps: inmates were forced to abandon their traditional culture, to grow crops for export rather than for subsistence, and all males over 13 were required to serve in

paramilitary units supervised by the army called civil patrols. Civil patrollers were, and continue to be, forced to work on construction projects for the army, with no pay and with no compensation from time lost from their own labor; they are used as cannon fodder for the army, that is, civil patrollers are sent out first in case of suspected guerrilla attack so they will receive the brunt of the attack. Refusal to serve on a civil patrol can mean death for the refuser and, in many cases, for his family as well.

The army also stepped up forced recruitment into the regular forces during this period. The Guatemalan Constitution forbids the army to recruit males under the age of 16, but it remains common practice for trucks to round up all young males in a certain vicinity and force their induction into the army. The consequence of desertion can be torture or death.

Elections were finally held in 1985, and Vinicio Cerezo was inaugurated as president in January of 1986. While there was an immediate reduction in killings, disappearances and torture by the military in the first months of his term, Cerezo indicated his government would not seek out and punish those members of the military that were responsible for killing or torturing civilians who acted for greater freedom and rights. During Cerezos term, the state-sponsored violence continued.

President Serrano, elected in 1991 in the first peaceful transition of power since 1951, sought and obtained office with the promise that he would end Guatemala's tragic record of human rights abuses, as well as the impunity of human fights violators. The reality was that the military

continued to effectively hold the reins of power and gross human rights abuses continued as a matter of course. In the first three months of Serrano's presidency alone, human rights monitors estimated that there were 180 extrajudicial murders and 46 disappearances.

In 1991 and 1992, repression against the USAC community in particular greatly intensified. In January of 1992, the Association of University Students office at USAC was bombed. In April of 1992, a new combined force of police and military, known as the "Hunapu" regiment, fired on a group of students preparing for the annual student march, the "Huelga de Dolores" ("Strike of Sorrows"), permanently injuring several; in May Hunapu members entered the University campus, firing upon students and abducting several.

IV. The 1993 Coup

Violence and repression against students, faculty, trade unionists, farmworkers and other members of the civilian population continued throughout Serrano's term. At the same time, the government imposed a series of "austerity measures" such as electricity and transportation rate increases and the issuance of required identity cards for students, which the government decreed would entitle students to transportation at reduced rates, although the private bus companies refused to honor the passes. The austerity measures were widely opposed, the students in particular decrying the transportation increases and the issuance of identity cards. Small spontaneous protests took place in various parts of the country. By late May, the situation had reached crisis proportions as state

workers called for a general strike on May 21 to oppose the electricity rate increases and the imposition of school uniforms, which many students could not afford, and identity cards. In the capital, particularly, the unrest gave the military the impression the country had become ungovernable.

In addition, in the months before the attempted coup, events such as a mass return of refugees from Mexico, the increased visibility of the internally displaced Communities of Population in Resistance (CPR'S), and the award of the Nobel Peace Prize to Rigoberta Menchu, focused international attention on human rights in Guatemala and bolstered the Guatemalan social justice movement. In addition, the national press reported these and related political developments with a tone that was sharply critical of the army and government.

On May 25, 1993, fearing that he had lost control because of the increasing number of student-led protests, President Serrano, with the backing of the Guatemalan military, announced that he had suspended the constitution and would rule by decree. Facing a prompt and forceful international response and a broad-based coalition of domestic opposition, the military refused to support Serrano, instead forcing him to resign. Both Serranos vice president and the military candidate for president were popularly unacceptable. Hoping to appease the civil unrest, the legislature appointed Ramiro de Leon Carpio, the government's "Ombudsman for Human Rights," as President.

V. 1993 to Present – Unfulfilled Hopes

As Ombudsman for Human Rights, De Leon Carpio had initiated the investigation of human rights abuses committed by the military. His appointment as President raised hopes for fundamental changes in the extent of power and political decision-making by the army. These hopes have not been fulfilled.

The De Leon Carpio government has not produced any fundamental changes with respect to the power of the army. De Leon has refused to abolish the civil patrols, although as Ombudsman for Human Rights he denounced the existence of the patrols. There has been an increase in common crime, such as drug trafficking, kidnapping and car thefts, and an increase in indiscriminate terrorism and child kidnappings. The student community has continued to be targeted. For instance, in 1994, students were forbidden to meet in groups of larger than two. In November of 1994, peaceful student protests against a 55% transportation rate increase led to violence as the police invaded the University of San Carlos campus, firing on the students and killing Mario Lopez Sanchez, an undergraduate student. In January 1995, the current Human Rights Ombudsman denounced that the lack of security for the population constitutes a state of anarchy, insecurity and terror.

Elections were held in November of 1995. For the first time, two candidates representing the popular movement ran for Congress.

VI. The Process of Negotiating for Peace

The URNG has been engaged in peace negotiations with the Guatemalan government since 1990. A representative of the General Secretariat of the United Nations participates in the negotiations. Long stalled over the issues of human rights, land reform and refugee resettlement, an agreement was finally signed in January 1994 establishing the order of substantial points to be discussed and agreeing to the formation of an "Assembly of Civil Society" to include representatives from the civilian population in the peace talks. In March of 1994, an agreement on human rights was reached. Over the next year, agreements on Indigenous Rights and Refugee Resettlement were also signed; the latter agreements will not go into effect until all the issues on the negotiating table have been agreed to.

The 1994 "Comprehensive Accord on Human Rights" was to go into effect immediately, with independent verification from a United Nations mission. Unfortunately, the members of the mission have been harassed and intimidated by forces controlled by the government; in June of 1995, two members were held hostage for 26 hours.

VII. The U.S. Role Since 1954

While the U.S. State Department has publicly condemned Guatemalas persistent practice of abuse of human rights, U.S. policy has been instrumental in creating and maintaining the power and impunity of the military forces. The United States has supported the activities of the Guatemalan government both by giving direct financial aid and by training and advising the military. In addition,

since the U.S. sponsored coup in 1954, the CIA has worked closely with the Guatemalan security forces.

In the 1960s, the United States used Guatemala as a staging ground for its war on communism. During this period, U.S. taxpayers provided critical support and training to the Guatemalan military, including the G-2, the secret police, which was advised, trained, armed and equipped by U.S. undercover agents. The scorched earth tactics of the early 1980s were modeled on U.S. operations in Vietnam, and U.S. military officers were instrumental in organizing the death squads that terrorized the Guatemalan population.

In 1995, it became public that the Guatemalan Army colonel who ordered the murders of Efrain Bamaca, a guerrilla commander and the husband of U.S. citizen Jennifer Harbury, and Michael Devine, a U.S. Citizen living in Guatemala, was on the CIA payroll for numerous years. According to U.S. and Guatemalan intelligence sources, at least three of the recent chiefs of the G-2, the intelligence police, have been paid by the CIA, as was Hector Gramajo, Minister of Defense under Rios Montt and manager of the scorched earth campaign.

Overt financial aid to the Guatemalan military was cut off in 1977 by Carter administration, because of Guatemalas consistent violations of human rights. The U.S. continued to donate military equipment and weaponry and to train Guatemalan army and police officers, including Hector Gramajo, who attended the U.S. School of the Americas in Georgia for counterinsurgency training.

The Reagan administration consistently de-emphasized the number and severity of human rights abuses by the

Guatemalan security forces in the annual State Department country reports, upon which many foreign aid and foreign policy decisions are based. Despite U.S. legislation prohibiting export licensing of sales of military equipment to governments "engaged in a pattern of gross violations of internationally recognized human rights," the Reagan administration approved licenses of sales to Guatemala of over $1.4 million worth of equipment during the height of Rios Montt's scorched earth policy.

When Cerezo became president of Guatemala, his policy of neutrality toward the Nicaraguan contras infuriated the Reagan administration, which actively supported the contras even after being forbidden to do so by Congress. During this period, the Democrat-controlled U.S. Congress actually approved greater levels of military assistance than requested by the administration.

The Bush administration publicly criticized the Guatemalan government for its violations of human rights but continued to provide economic assistance and U.S. military personnel, ostensibly to assist in municipal construction and health projects, continued, as did the training of Guatemalan military officers in the United States.

In 1993, military aid was expressly conditioned on improvement in human rights. The new legislation specified that before releasing aid, the relevant Congressional committees were to evaluate the Guatemalan government's progress in investigating and bringing to justice certain notable cases of human rights violations. Military assistance has not been reinstituted. In 1995, however, military training was suspended after it became public that a Guatemalan colonel who was being paid by the

CIA ordered the murders of Michael DeVine, and the husband of Jennifer Harbury.

The United States also supports Guatemala through the Generalized System of Preferences ("GSP"), legislation that seeks to promote trade with developing countries by granting most of their products duty-free access to the U.S. market. Beneficiaries of the GSP, however, must respect internationally-recognized workers' rights and intellectually property laws. Petitions brought to the committee in charge of reviewing GSP status have succeeded in placing Guatemala's status under review, but GSP benefits have not been revoked despite overwhelming evidence that Guatemala does not respect the right to form and participate in trade unions.

Guatemalan Refugees in the United States

Tens of thousands of Guatemalans have fled to the United States seeking refuge from the violence in Guatemala. International and U.S. domestic law provide that a person may seek political asylum if he or she is unwilling or unable to return to his or her home country because of persecution, or a well-founded fear of persecution, on account of race, religion, nationality, political opinion, or membership in a particular social group. From June of 1981 until March of 1991, the U.S. government approved only 2% of the Guatemalan applications for political asylum, compared, for example, to a 72% approval rate of applicants from the Soviet Union or a 90% approval rate for Cubans.

In 1990, the U.S. government settled a lawsuit brought on behalf of Guatemalan refugees, *American Baptist Churches*

v. Thornburgh ("ABC"), which charged the government of discriminating against Guatemalans on the basis of foreign policy considerations. Guatemalan applicants were given a chance to apply and to have their applications reviewed by specially trained asylum officers. This case, however, did not solve the problem of many refugees, because they are fleeing from general conditions of political violence, civil war, and human rights violations. The United States has refused to grant Guatemalans Temporary Protected Status, which would suspend deportations to Guatemala, although this status has been granted to other nationalities during civil wars in their home countries.

Video Study Questions

1. What are the conditions in Guatemalan schools that prompted students to organize as a political movement? Compare the conditions in your school, and your life as a student, to the experience shown in the video.

2. What major social problems concern the students? Do any of these problems explain why Guatemala has been in a civil war for 30 years

3. What risks do young people face by being involved in the student movement? Why do they take these risks?

4. How does the student movement fit into the broader popular movement for social change?

5. What methods are used by the Guatemalan government and military to control students? Why do the government and the military accuse the students of being communists and subversives?

6. What is the attitude of teachers and human rights activists toward the student movement?

7. How is the United States involved in Guatemala? Does U.S. involvement make the situation better or worse? What are some activities U.S. students can pursue to support the student movement and social change in Guatemala? (See The Next Step in this manual for suggestions.)

Classroom Activities

Feast and Famine Banquet

One fundamental tenet of human rights is that all individuals must have equal access to basic, life-sustaining resources. In Guatemala, almost 90% of the people do not have access to adequate food and drinkable water, while the other 10% have more than they need. This inequity is one of the major causes of rebellion in Guatemala.

To understand the social implications of this inequity, the class can arrange a banquet during the class period. Each student should bring one delicious snack and one cracker. The teacher will collect all the snacks and the crackers and divide the class into sections representing a population that is 90% poor and 10% wealthy: for each nine poor students, one will be wealthy. Each of the poor students will have one cracker for a snack, and the rest of the food will be for the rich students, who should be instructed not to share with the rest of the class.

Questions for students:

1. How does it feel to not have enough food when others have too much?

2. Could you accept this situation on a daily basis?

3. What conflicts would arise out of this situation?

4. How could you remedy the situation?

5. What connections are there between this banquet and the situation in Guatemala?

Internet Project

Students can use the Internet to find out more about current affairs in Guatemala. Most schools have access to the Internet though libraries and students may have access through their home computers. We suggest that teachers arrange to have a librarian or computer science teacher give a short talk on use of the Internet.

The page is linked to the major human rights organizations that report on Guatemala on a regular basis. As a class assignment, students can be divided into groups to find answers to the following questions:

1. What are the current objectives of the Guatemala student movement? What actions are planned to reach those objectives?

2. From the GSI Home Page, click on to one of the related pages, such as the Jeniffer Harbury Home Page. What accusations is Ms. Harbury making against the United States government and the CIA?

The Next Step

WEB PAGE

You can instantly access information about Guatemala and the student movement on the Guatemala Student Intitiative (GSI) web page at: **http://www.alternativemedia.org/gsihome.html.**

At the web page, you can send E-Mail directly to students and faculty in Guatemala who are eagerly awaiting to hear from you.

BRING A SPEAKER TO YOUR SCHOOL OR CAMPUS

GSI can help you bring a speaker to your school or campus. Speakers from Guatemala frequently tour in the United States, or GSI can help you connect with a representative of a Guatemalan refugee organization in your community.

BECOME A SISTER SCHOOL

Students and teachers can start a sister school organization with as few as two or three core members. GSI can put your group in contact with a student organization in Guatemala and suggest solidarity activities.

DELEGATIONS TO GUATEMALA

GSI encourages students and teachers to participate in fact-finding delegations to Guatemala. Delegates spend one week in Guatemala interviewing students, teachers, human rights workers, farmworkers and trade unionists

to find out more about the current situation in Guatemala. The results of interviews are compiled into a report for U.S. government and United Nations officials. GSI can help you organize a delegation and will forward reports to appropriate officials.

JANUARY TERM IN GUATEMALA

Students and teachers who wish to spend a January term in Guatemala can contact GSI for help in finding low-cost housing, educational opportunities, and contacts in Guatemala. January courses can be arranged on a number of topics including Human Rights, Mayan Culture, Environmental Issues and Urban Struggles.

WRITE A LETTER

Organize a campaign to write letters to your U.S. Senators and Member of Congress asking for an end to military aid and CIA involvement in Guatemala. Ask the government to make public documents about CIA activities in Guatemala so that the truth will be known about U.S. aid to death squads and terror. Send your letters to:

The Honorable
United States Senate
Washington, D.C. 20510

and

The Honorable _____
United States House of Representatives
Washington, D.C. 20510.

Resources

Amnesty International
304 Pennsylvania Ave. SE
Washington, DC 20003
(202) 544-0200.
International human rights monitoring and activism group. Has local chapters in virtually every city in the United States. Also has a student network in high schools and colleges.

Atanasio Tzul, Guatemala Support Network
4554 N. Broadway Suite 273
Chicago, IL 60640
National network of solidarity organizations in support of the struggle for human rights in Guatemala.

National Coordinating Office of Refugees and Displaced of Guatemala (NCOORD)
59 E. Van Buren
Suite 1400
Chicago, IL 60605
312-360-1705.
Clearinghouse for information about and coordinator for support for Guatemalan refugees returning from Mexico. Arranges accompaniment trips.

Washington Office on Latin America
110 Maryland Ave. NE
Washington, DC 20022
202-544-8045.
Reports to US Congress on developments in Central America.

Print Resources

Barry, Tom. *Guatemala: A Country Guide.* Albuquerque: The Resource Center (1990).

Barry, Tom. *Inside Guatemala.* Albuquerque: The Resource Center (1991).

Jonas, Suzanne. *The Battle for Guatemala*: Rebels, Death Squads and U.S. Power. Boulder: Westview Press (1991).

Schlesinger, Stephen, and Stephen Kinzer. "Bitter Fruit". New York: Doubleday and Anchor Books (1983).

Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny.* New York: W.W. Norton & Co. (1987).

The Guatemala Student Initiative

The Guatemala Student Initiative (GSI) is a project to provide contacts and support between U.S. and Guatemalan students and teachers. The greatest impact of the GSI will be on the lives of students and teachers in Guatemala and the United States. Our goal is to use ***No Nos Tientes*** as a rallying point to develop sister school links between activist groups in Guatemalan schools and U.S. students and teachers.

U.S. students and faculty can maintain constant communication via mail, phone, fax and e-mail with student and faculty contacts in Guatemala. U.S. schools are encouraged to organize delegations to Guatemalan schools, to set up exchanges and presentations, and to offer interim semester courses on human rights in Guatemala. In addition, we are setting up a network which will link all of the participating groups through a Web Site on the Internet to mobilize U.S. students on a national level.

These activities will help protect the lives of Guatemalan students and faculty by drawing international attention to Guatemala. The Student Initiative will benefit members of the entire Popular Movement in Guatemala, since the students tend to be at the vanguard of opposition efforts.

U.S. students also benefit. They become more intimately involved and knowledgeable of the situation in Guatemala and of the U.S. role in the Central American region. An indirect social benefit of the project will be to sensitive youth to the plight of political refugees, hopefully stemming the tide of anti-immigration sentiment which is currently gripping our country.

No Nos Tientes: The Students of Guatemala was produced by Amy Beer and Christine List in cooperation with Casa Guatemala, a Chicago-based non-profit organization. The Guatemala Student Initiative is a project of Casa Guatemala. Funds for the Student Initiative and this manual were contributed by the Funding Exchange and the Crossroads Foundation. All profits from sales of the video, are donated to the Student Initiative.

APPENDIX C-28

"Ceiling on Transit Fares Removed", *Jennifer Harbury Letters & Information*, www-personal.engin.umich.ed ...ury/archive/cerigua/cwb06_98b.html

Ceiling on Transit Fares Removed

Guatemala City, February 5. Guatemala City mayor, Oscar Berger, announced January 29 that he will allow increases to city transit fares, as part of a thorough overhaul of the system. The announcement has revived memories of past attempts to raise the fare, which have usually led to widespread and violent protests by passengers.

The mayor announced the new policy, which puts an end to decades of municipal regulation of fares, saying that starting in June the market will control transit prices. To ensure that the poorest users are not hurt, however, Berger says the municipality will provide cheaper bus tickets for them. And he said that should the bus owners abuse the new system, the municipality would reserve the right to step in and take over all the routes.

The change will take place once the city's 101 bus routes are redistributed through a bidding process among the 20 private companies that are now operating and any newcomers that fit the requirements. In addition, the city government will divvy out to the companies 800 new busses bought last year with a US $60 million loan from the Central American Economic Integration Bank (BCIE).

Bus owners receive US $8 million annually in government subsidies for providing the service.

The Unity of Labor and Popular Action (UASP), the Guatemalan Workers Union Federation (UNSITRAGUA) and the University Students Association (AEU) have all condemned the move, calling it another blow to already strapped family economies.

For many Guatemalans, affordable city transportation is an essential service that they are willing to fight to defend. In 1994 following a 25 centavo hike in the fare, protests broke out across the city. During one, police shot and killed university student Mario Alioto Sanchez Lopez.

Critics dispute the government's argument that competition will keep prices low since the city's bus owners have never in the past troubled to improve the service to attract passengers.

In fact, Guatemala City's busses are widely seen as a public hazard. Despite the government subsidies they receive, bus owners do not maintain their units and are not obliged to meet any safety, health or environmental standards.

Just last week, three passengers fell from an overcrowded bus when the driver braked suddenly. Two of the victims were killed when they hit the pavement and the third received serious injuries. The bus's driver did not stop to attend to the victims, but continued on his route.

APPENDIX C-29

"Transit System Reform, a Mixed Blessing", *Jennifer Harbury Letters & Information*, www-personal.engin.umich.ed...ury/archive/cerigua/cwb26_98.html

Transit System Reform, a Mixed Blessing

Guatemala City, July 2. The lungs of Guatemala City residents may finally find some relief, and trips to and from work in the city may not be so fraught with danger. But these changes – the result of reforms to the transit system – will also affect city dwellers' wallets.

In an attempt to renovate the capital's appalling transit system, yesterday Mayor Oscar Berger put 800 new busses into service and banned the oldest of the units in circulation from the city's streets.

The move, paid for with a US $60 million loan from the Central American Economic Integration Bank (BCIE), seeks to attack the worst of the problems created by the privately owned service by taking more than 700 units built before 1978 off the road, redesigning several routes in order to alleviate the city's center, and legislating penalties for drivers and bus companies that violate transit regulations.

Guatemala City's bus owners have traditionally kept their units – some of them with more than 40 years in circulation – in a permanent state of disrepair, endangering the lives of passengers, and polluting the city air. They also overload the busses, leaving riders dangling from the back doors, and causing many accidents. And they encourage their drivers to race each other for fares, with little regard for other vehicles or passenger safety.

But attempts to improve the system have to date ended in failure. The 20 bus companies, who receive a government subsidy for providing the service, form a powerful lobby group that not even the ruling National Advancement Party (PAN) is eager to defy. Now, with general elections looming up next year, Berger – a favorite to run as the PAN's presidential candidate – has once again taken up the challenge, with mixed results.

Not all users are happy with the changes. Travelers on the new busses must pay ten to 35 centavos more. And many older units have slipped in a fare hike as well. For poverty stricken Guatemalans, even pennies more per trip is devastating to the family economy. In addition, the municipality reduced the length of many routes, forcing passengers in outlying districts to take more than one bus, and pay two fares.

Often in the past, increases in transit fares have led to widespread rioting. So far under the new system disturbances have been few.

APPENDIX C-30

"Crisis in Public Transit, an Annual Event", *Jennifer Harbury Letters & Information*, www-personal. engin.umich.ed...ury/archive/cerigua/cwb02_97.html

Crisis in Public Transit, an Annual Event

Guatemala City, January 3. Every year, Guatemala City bus companies pull their units from the streets to press

City Hall to authorize higher fares for the public service. The ensuing chaos has often resulted in the deaths of transit users. But now, city Mayor Oscar Berger says he has a plan to resolve the problem once and for all.

Only months after the municipal government approved a five centavo hike in public transit fares, the privately owned companies, which provide the service in exchange for a US $8 million annual government subsidy and any profits to be had, demanded this month another 18 centavo – or 25 percent – increase in fares. When City Hall refused, the companies suspended the service December 15. And for two weeks city residents had to rely on a motley assortment of vehicles – which appeared overnight to offer their services in place of the busses – to get them to and from work.

Finally the companies accepted Mayor Berger's offer of another five centavo hike, and service was resumed.

Two years ago, a similar strike by the bus companies led to widespread rioting. One university student was killed by police during a protest, and several people died in falls from the vehicles that provided an improvised service. On that occasion the municipal government promised a city-owned service that would compete at a lower price with the other companies. The city service – comprised of 20 units – lasted less than a year and only reappeared temporarily to help alleviate the renewed crisis this year.

Now Mayor Berger says that a new fleet of 800 city-owned buses is the solution. The municipality has presented a bill to Congress to approve the US $60 million

loan from the Central American Bank for Economic Integration (BCIE) that is needed to purchase the vehicles.

APPENDIX C-31

"Cost of Living Protests Begin,", *Jennifer Harbury Letters & Information*, www-personal.engin.umich.ed...ury/archive/cerigua/cwb09_97.html

Cost of Living Protests Begin

Guatemala City, February 26. Long-predicted protests against rising living costs in Guatemala began to erupt this week with lively demonstrations in the capital and Chichicastenango, Quiche province.

On the outskirts of Chichicastenango, thousands of campesinos set up burning barricades and stoned buses to protest higher transit fares and increased costs for basic goods and services.

Protesters said interurban bus fares have gone up more than 50 percent in recent months.

Several buses and a police patrol car were attacked with stones and clubs when they tried to run the barricades.

And today in the capital, several hundred demonstrators showed up at Congress to protest government economic policies. The protesters attempted to enter the building to attend the congressional hearing of Economy Minister Mauricio Wurmser, but more than a hundred riot police blocked their passage.

After the intervention of legislators from the New Guatemala Democratic Front (FDNG), however, the security forces allowed protesters to enter.

Inside Congress, Wurmser defended his policies saying the measures have curbed inflation and stabilized fuel prices. The minister rejected charges that the cost of basic goods have registered a sharp increase this year.

But FDNG legislator Nineth Montenegro said the government's economic policies have resulted in increased hardship and unemployment for the average Guatemalan. Almost half the work force is now unemployed, she noted.